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*Paper laid by
the Chairperson, Departmental
Committee on Labour &
Social Welfare on*



DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON THE 37TH SESSION OF THE HUMAN RIGHTS COUNCIL,
UN HEADQUARTERS', GENEVA

MARCH 05 - 09, 2018

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DSWA*

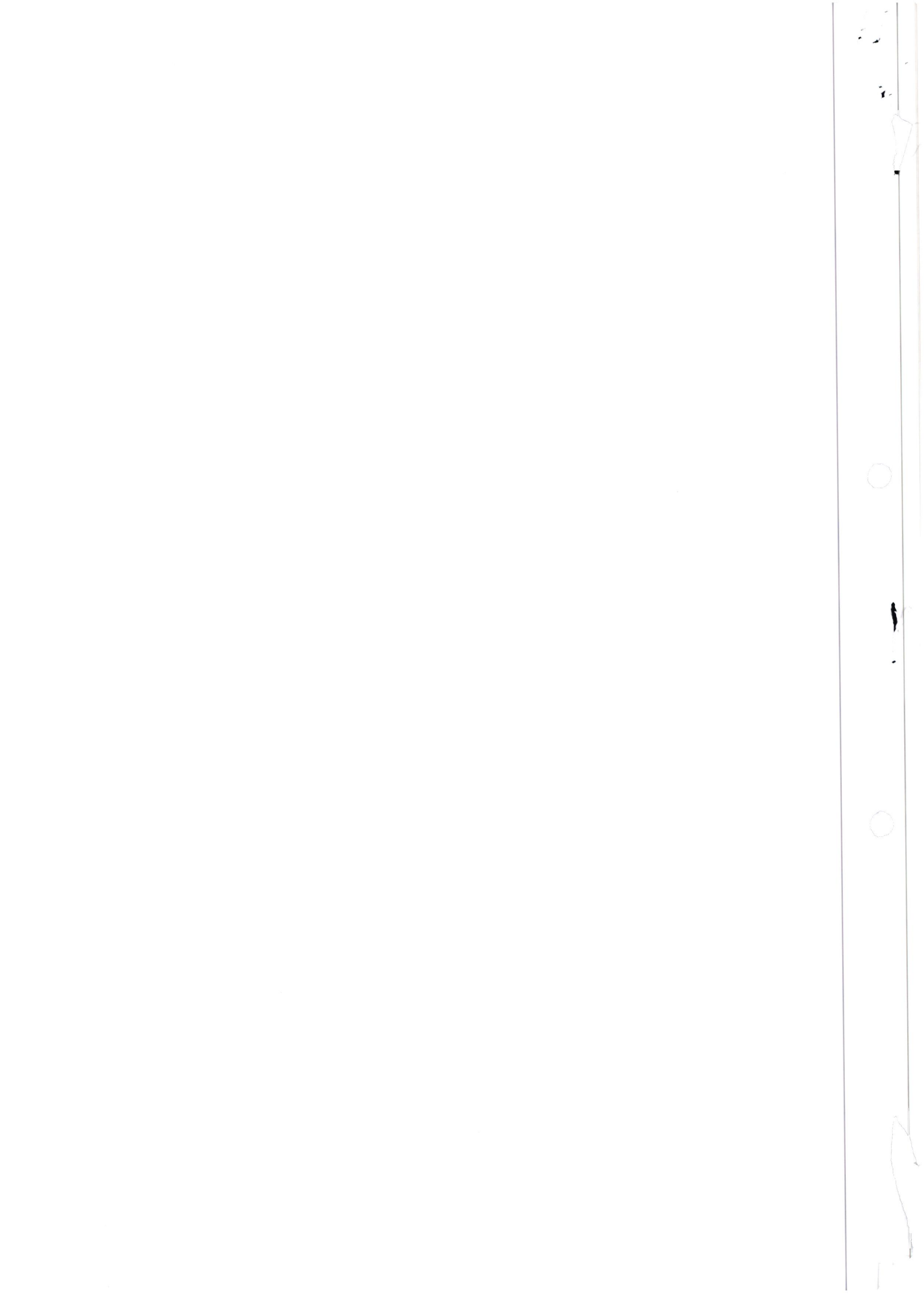
Clerk's Chambers
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Chairperson's Foreword

The Human Rights Council held its Thirty-Seventh Meeting from 26th February to 23rd March 2018 at the UN Headquarters' in Geneva, Switzerland. The theme of the 2018 Panel discussion was "The promotion and protection of human rights in the light of the universal periodic review mechanism: challenges and opportunities".

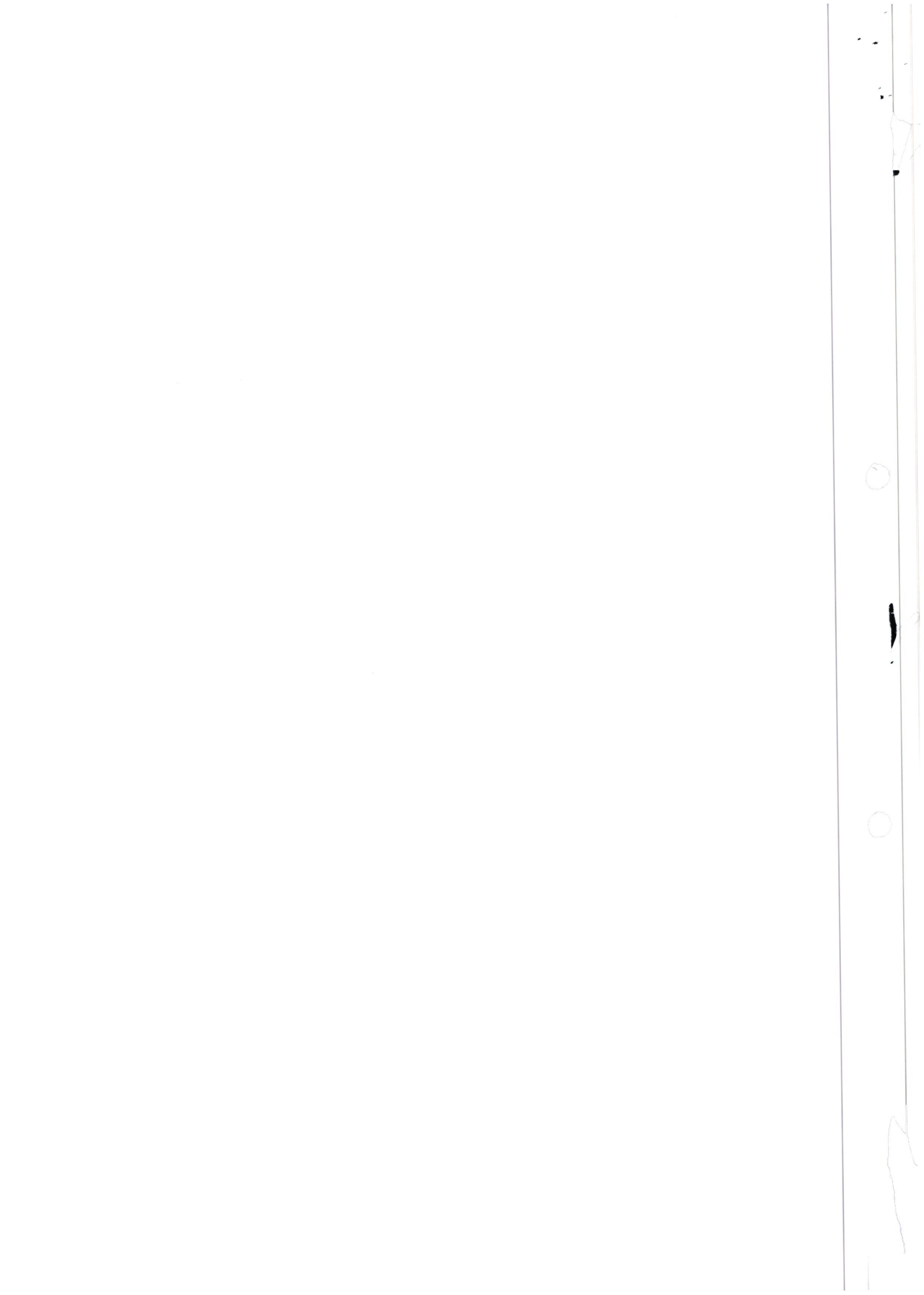
The Ministry of Labour and Social Protection invited the Departmental Committee on Labour and Social Welfare, the Select Committee on Regional Integration and the Select Committee on National Cohesion and Equal Opportunity to participate in the Human Rights Council Meeting from March 05th to 09th, 2018, the Committees were represented by:

- (1) Hon. Malulu Injendi, MP- Member Committee on Regional Integration and Leader of delegation;
- (2) Hon. Mohammed Hire Garane, MP. –Member, Select Committee on National Cohesion and Equal Opportunity; and,
- (3) Hon. Abdi Mude Ibrahim, MP, - Member of the Departmental Committee on Labour and Social Welfare.
- (4) Mr. John Mugoma- Delegation Secretary

The Council provided a forum for identifying, highlighting and developing responses to the contemporary human rights challenges and acts as the principal focal point of human rights research, education, public information, and human rights advocacy activities in the United Nations system.

The Council afforded an opportunity for members to understand the mechanism for enhancing the enforcement of universally recognized human rights norms, through ratification of treaties, conventions and translating resolutions of the major human rights treaties and respect for the rule of law into enforceable laws. This was in line with two General Assembly resolutions of 2012 and 2014 respectively that called for a stronger cooperation between the UN, national parliaments and the Inter-Parliamentary Union (IPU). This is reinforced by the fact that no less than 60-70 per cent of Council recommendations requires or involves parliamentary action. The Council also provided an opportunity for rich exchange of ideas and recommendations on ways of implementing Human Rights Council's Resolutions.

The Committee recommends that Parliament should ensure that effective, child-sensitive procedures are available to children and their representatives in accessing independent complaint procedures and courts. On this note, the Committee recommends the creation of children ombudsman to represent the interests of the children by investigating and addressing their complaints on violation of their rights. The Committee also recommends the inclusion of Human rights subjects at all levels of the education system. Inclusion of human rights in the school curriculum would help children to develop a sense of common humanity, sharing of values and responsibility based on human rights.



Further, the Committee recommends that to defend rights of persons with Disability, Parliament should enact laws that provide affordable legal aid to persons with disabilities in all areas of law and the National Government should allocate resources to support the provision of free legal aid. Additionally, Effective implementation of safeguards to prevent torture and other cruel, inhuman or degrading treatment or punishment during police custody and pretrial detention had the greatest impact on reducing and preventing torture. On this note, importance of the inspection and monitoring of places of police custody and pretrial detention by independent national or international mechanisms, such as national preventive mechanisms, the Subcommittee on Prevention of Torture, and the International Committee of the Red cannot be overemphasized.

The Committee also recommends that Parliament should review the Independent Policing Oversight Authority Act, 2011 to strengthen Independent Policing Oversight Authority in investigating claims made against the police. The Committee on National Cohesion should require the Authority to prepare a performance report every six months on its activities.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to the Members in facilitating the said Committee activity.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty and privilege to table in the House the Report of the Thirty-Seventh Human Rights Council held in UN Headquarters' in Geneva from 26th February to 23rd March 2018.



Hon. Ali Wario, M.P
Chairperson, Labour and Social Welfare Committee



1. Introduction

The Ministry of Labour and Social Protection invited the Departmental Committee on Labour and Social Welfare, the Select Committee on Regional Integration and the Select Committee on National Cohesion and Equal Opportunity to participate in the Human Rights Council Meeting from March 05 to 09, 2018, the Committees were represented by:

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- (3) Hon. Abdi Mude Ibrahim, MP, - Member of the Departmental Committee on Labour and Social Welfare.
- (4) Mr. Mugoma John – Delegation Secretary

1.1 Establishment and Mandate of the Committee

The Committee on Labour and Social Welfare is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated:

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- ii. To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
- iii. To study and review all legislation referred to it;
- iv. To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
- v. To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;
- vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and
- vii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

1.2 Membership of the Committee

The Committee is currently comprised of:

Chairperson: **The Hon. Ali Wario, MP**

Vice Chairperson: **The Hon. Joyce Korir, MP**

Members: The Hon. Gladys Wanga, MP



The Hon. Janet Marania Teyiaa, MP
The Hon. Janet Nangabo Wanyama, MP
The Hon. Ronald Kiprotich Tunoi, MP
The Hon. James Onyango Koyoo, MP
The Hon. Rose Museo, MP
The Hon. Alfred Kiptoo Keter, M.P
The Hon. Charles Kanyi Njagua, MP
The Hon. Catherine Wambilyanga, MP
The Hon. Fabian Kyule Muli, MP
The Hon. Ole Sankok David, MP
The Hon. Abdi Mude Ibrahim, MP
The Hon. Michael Mwangi Muchira, MP
The Hon. Safia Sheikh Adan, MP
The Hon. Tom Odege, MP
The Hon. Wilson Sossion, MP
The Hon. Omboko Milemba, MP

1.3 Committee Secretariat

First Clerk Assistant	Mr. Adan Gindicha
Clerk Assistant III	Mr. John Mugoma
Legal Counsel	Ms. Marlene Ayiro
Research Officer	Mr. Said Osman
Fiscal Analyst	Ms. Amran Mursal.

1.4 Observations

The Committee appreciates the role of OHCHR in reinforcing human rights as a key pillar of the United Nations system, alongside security and development. The Committee made a number of Observations in regard to;

(a) Access to Justice for Persons living with disabilities

Several good practices illustrate the possibilities of guaranteeing the accessibility of legal information and communication to persons with disabilities. For instance, the Constitutional Court of Colombia and the Supreme Court of Mexico called for the translation of judgments concerning persons with disabilities into easy read formats for the benefit of the petitioners and other persons with intellectual disabilities.



In Finland, the police have designed their website to provide a range of accessible formats, such as plain language, content and videos in sign language, some of them captioned, and a complaint form in large print for easy access of persons with disabilities. States should implement mechanisms to monitor their legal proceedings and evaluate the success of their policies with regard to access to justice. For example, States could establish markers that allow for the identification of persons with disabilities who access the justice system and the outcomes. Existing systems could also include data collection tools that allow for disaggregation, such as the Washington Group on Disability Statistics Short Set of Questions.

The absence of free legal aid is one of the most common barriers to equality of arms and equal access to justice, particularly for persons with disabilities, who number disproportionately among the world's poor and face challenges in affording legal advice and representation. The right to legal counsel is a fair trial right and includes the right to free legal aid. The Committee was concerned about the lack of available free legal aid for persons with disabilities, and for women and girls with disabilities facing violence or abuse. In some countries where legal aid services have been established, in practice they lack the necessary resources; do not operate on an independent basis; are inaccessible to persons with disabilities; or lack sufficient expertise about the rights of persons with disabilities. In Canada, the Ontario Legal Aid Office provides all information online in alternative formats and trains employees on communicating with people with various types of impairments.

Further, attitudinal barriers affect access to justice for persons with disabilities, as they may negatively influence the way in which laws, legal policies, procedures and practices are implemented. Often, these attitudinal barriers stem from lack of awareness of the rights of, and appropriate practices for, persons with disabilities in the justice system on the part of police officers, public defenders and professionals working as public defenders or providing legal aid, legal service providers and others.

(b) Pretrial detention Safeguards

Effective implementation of safeguards to prevent torture and other cruel, inhuman or degrading treatment or punishment during police custody and pretrial detention had the greatest impact on reducing and preventing torture. On this note, importance of the inspection and monitoring of places of police custody and pretrial detention by independent national or international mechanisms, such as national preventive mechanisms, the Subcommittee on



Prevention of Torture, and the International Committee of the Red cannot be overemphasized.

The meeting lauded the internal and independent complaints mechanisms and investigations in different regions. In Canada, the work of the Office of the Independent Police Review Director, mandated to investigate claims made against the police. The police were wary of the Office as they knew mistreating detainees carried serious sanctions.

Further, Canadian Special Investigations Unit (a civilian law enforcement agency, independent of the police, and an arms-length agency of the Ministry of the Attorney General). The Unit conducted independent investigations to determine whether a criminal offence had taken place in incidents in which police officers were involved and someone was seriously injured or died or there was an allegation of sexual assault. It had prosecutorial powers and was composed of civilians and former police officers. The head of the Unit could not be a former police officer in order to avoid a conflict of interest. The Unit communicated regularly with the media.

Another example was the United Kingdom Independent Police Complaints Commission, an independent organization that oversaw police complaints in England and Wales. Moreover, an Independent Police Investigative Directorate of South Africa, conducted independent investigations into allegations of criminal offences committed by members of the South African Police Service and metropolitan police services, and the South African Judicial Inspectorate for Correctional Services, which enabled a judge to inspect and report on the conditions and treatment of inmates in correctional centres. Although those centres received government funding, they asserted their independence.

Additionally, the Commission on Human Rights and Administrative Justice in Ghana has the power to look into allegations of mistreatment in detention, although they did not have the power to prosecute.

The Committee underlined that properly functioning oversight mechanisms needed to be independent in terms of their decision-making capabilities and investigatory functions. The independent bodies' decisions should be implemented and police should have a healthy fear of investigations.



(c) Multiple and intersecting forms of discrimination

Unequal opportunities and impediments to human development were rarely attributable to discrimination based on a single dimension of a person's identity. People most affected by discriminatory practices usually faced multiple and intersecting forms of discrimination, which denied them their basic human dignity. Multiple and reinforcing grounds of discrimination led to poverty and violence and denied women and girls their human rights.

Some of the compounding factors that underwrite intersectional discrimination and violence include (a) the lack of awareness of the problem and its extent; (b) poverty; (c) the absence of statistical information related to the situation of women from specific groups, including the prohibition of collection of data on the basis of ethnicity; (d) the absence of legislation and other measures; and (e) inadequate allocation of resources. The lack of involvement of women in decision-making processes, patriarchal practices and norms, and barriers in accessing justice and services such as education, health care, credit facilities and community services were also identified as key factors that enable intersectional discrimination.

Inclusion and participation of women and girls was key to overcoming those challenges and that addressing intersecting forms of discrimination against women and girls would contribute to the full implementation of the Sustainable Development Goals.

(d) 2030 Agenda for Sustainable Development

The 2030 Agenda for Sustainable Development is unequivocally anchored in human rights and has at its heart the commitment to leave no one behind and to reach the furthest behind first. It aims to address the multidimensional causes of poverty, inequality and discrimination, and reduce the vulnerabilities of the most marginalized people, including women, refugees, internally displaced persons, migrants, minorities, indigenous peoples, stateless persons and populations affected by conflict and natural disasters.

Disasters, crises and conflicts, including those induced by climate change, pose a significant threat to progress towards sustainable development and the realization of all human rights, including economic, social and cultural rights.

(e) Children's human rights violations in humanitarian situations

Children are especially vulnerable to human rights violations committed in humanitarian situations, such as the deprivation of health care and education, forced displacement, the separation of children from their families, abduction and trafficking, their recruitment and use by armed forces or groups, and sexual abuse and exploitation.



2.0 Background

2.1 Human Rights Council

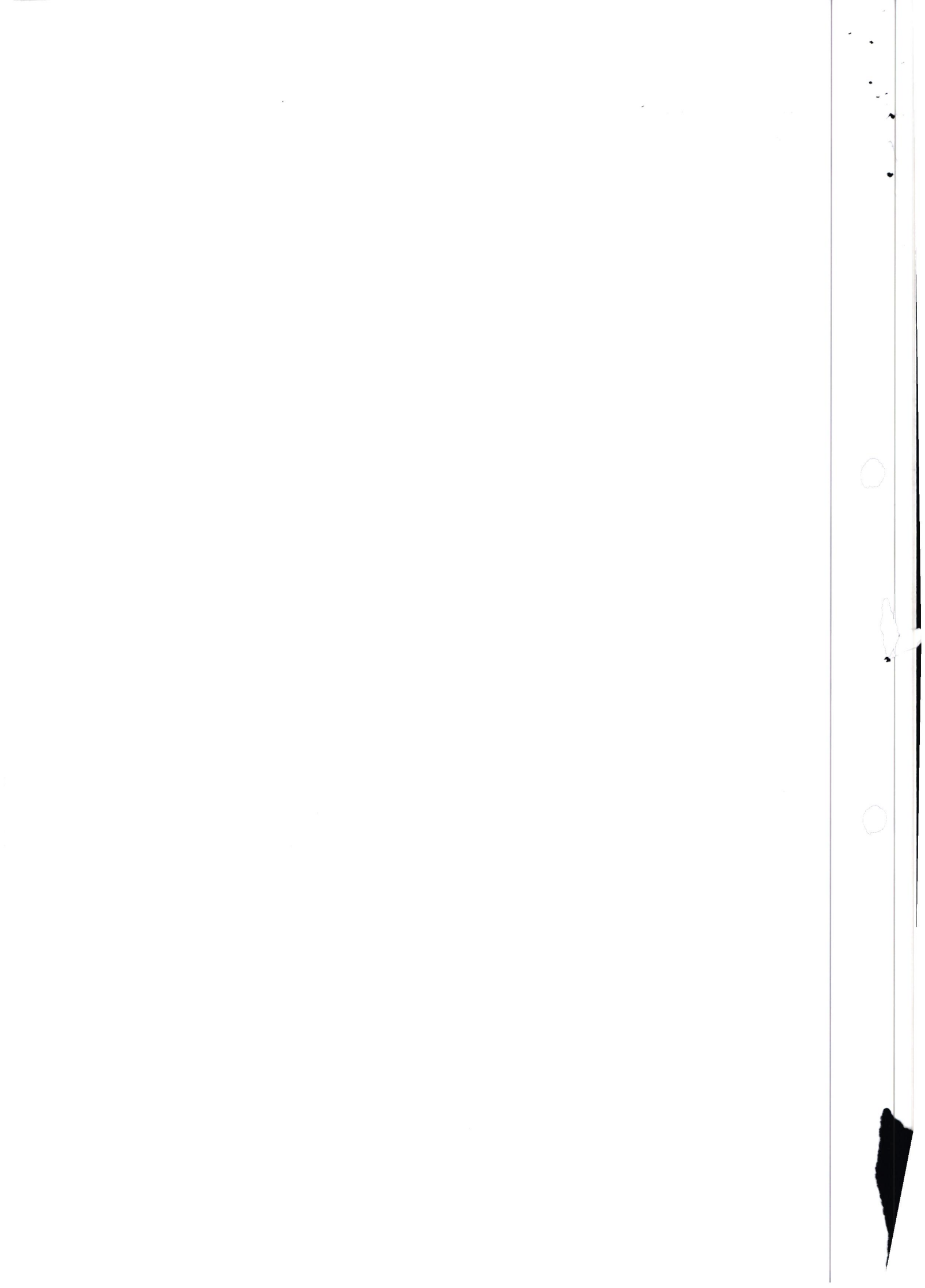
The Human Rights Council was established by the General Assembly as the key United Nations intergovernmental body responsible for human rights. Decisions and actions by the Council, which consists of State representatives, are the result of negotiations among Member States.

The Office of the High Commissioner for Human Rights (OHCHR), a part of the United Nations Secretariat, has a unique mandate from the international community to promote and protect all human rights. It is headed the High Commissioner for Human Rights whose independent role as the principal United Nations human rights official comes from a separate mandate of the UN General Assembly. OHCHR provides logistical, administrative and substantive support to the work of the United Nations human rights mechanisms, such as the Human Rights Council and the core treaty bodies.

The Human Rights Council, consisting of State representatives and reporting directly to the General Assembly, is a political body with a comprehensive human rights mandate and a distinct entity from OHCHR. The Council addresses violations, promotes human rights assistance and education, reviews States' human rights records, works to prevent human rights abuses, responds to emergencies, and serves as an international forum for human rights dialogue.

To implement its comprehensive mandate, OHCHR employs some 850 staff, deployed in 11 country offices, seven regional and sub-regional offices, and human rights units in 17 peacekeeping missions. OHCHR offers leadership, works objectively, educates and takes action to empower individuals and assist States in upholding human rights. Through its unique access, OHCHR works with and provides assistance to Governments, such as expertise and technical trainings in the areas of administration of justice, legislative reform, and electoral process, to help promote and implement human rights worldwide.

It also assists those with responsibility to fulfil their human rights obligations and individuals to realize their rights, and speaks out objectively in the face of human rights violations. It provides a forum for identifying, highlighting and developing responses to today's human rights challenges, and acts as the principal focal point of human rights research, education, public information, and human rights advocacy activities in the United Nations system.



OHCHR also works to ensure the enforcement of universally recognized human rights norms, including through promoting both the universal ratification and implementation of the major human rights treaties and respect for the rule of law.

The Human Rights Council held its Thirty-seventh session from 26th February to 23th March 2018 at the UN Headquarters' in Geneva. The theme of the 2018 panel discussion was "The promotion and protection of human rights in the light of the universal periodic review mechanism: challenges and opportunities.

2.1 Composition of the Human Rights Council

The composition of the Human Rights Council at its thirty-seventh session was as follows: Afghanistan (2020), Angola (2020), Australia (2020), Belgium (2018), Brazil (2019), Burundi (2018), Chile (2020), China (2019), Côte d'Ivoire (2018), Croatia (2019), Cuba (2019), Democratic Republic of the Congo (2020), Ecuador (2018), Egypt (2019), Ethiopia (2018), Georgia (2018), Germany (2018), Hungary (2019), Iraq (2019), Japan (2019), Kenya (2018), Kyrgyzstan (2018), Mexico (2020), Mongolia (2018), Nepal (2020), Nigeria (2020), Pakistan (2020), Panama (2018), Peru (2020), Philippines (2018), Qatar (2020), Republic of Korea (2018), Rwanda (2019), Saudi Arabia (2019), Senegal (2020), Slovakia (2020), Slovenia (2018), South Africa (2019), Spain (2020), Switzerland (2018), Togo (2018), Tunisia (2019), Ukraine (2020), United Arab Emirates (2018), United Kingdom of Great Britain and Northern Ireland (2019), United States of America (2019), Venezuela (Bolivarian Republic of) (2018).

3.0 Presentations and Panel Discussion

3.1 Annual report of the United Nations High Commissioner for Human Rights

The United Nations High Commissioner for Human Rights submitted to the Human Rights Council an Annual report of the United Nations High Commissioner for Human Rights pursuant to General Assembly resolution 48/141. The report contained an overview of the work of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva, New York and through its country and regional human rights presences, from 1 December 2016 to 30 November 2017. It followed the thematic priorities that are reflected in the OHCHR Management Plan for the period 2014-2017.

The period under review witnessed ongoing conflicts and humanitarian crises, with civilians continuing to bear the brunt. Globally, 65 million people have been compelled to leave their homes, with 22.5 million refugees among them, of whom half are children. Minority and vulnerable groups endured persecution and violence; violations of this type also drove



massive population movements. Threats to democracy and the rule of law were also witnessed, including widespread actions to undermine civil society and human rights defenders.

The threats posed by terrorist groups continued to morph and increase despite some military successes against them. There were continuing attempts to consolidate nationalist and protectionist positions, entailing risks to the multilateral system of cooperation between States. At the same time, there were some encouraging developments, including citizens and movements pushing back against different forms of discrimination and hatred, extremism and populism, signalling that individuals and groups are prepared to stand up for rights and freedoms for all.

3.1.1 Comprehensive follow-up to the work of human rights mechanisms

Multi-faceted efforts by OHCHR contributed to giving practical effect to the work of the human rights mechanisms. Efforts included supporting the establishment and work of national mechanisms for reporting and follow-up and the implementation of their recommendations.

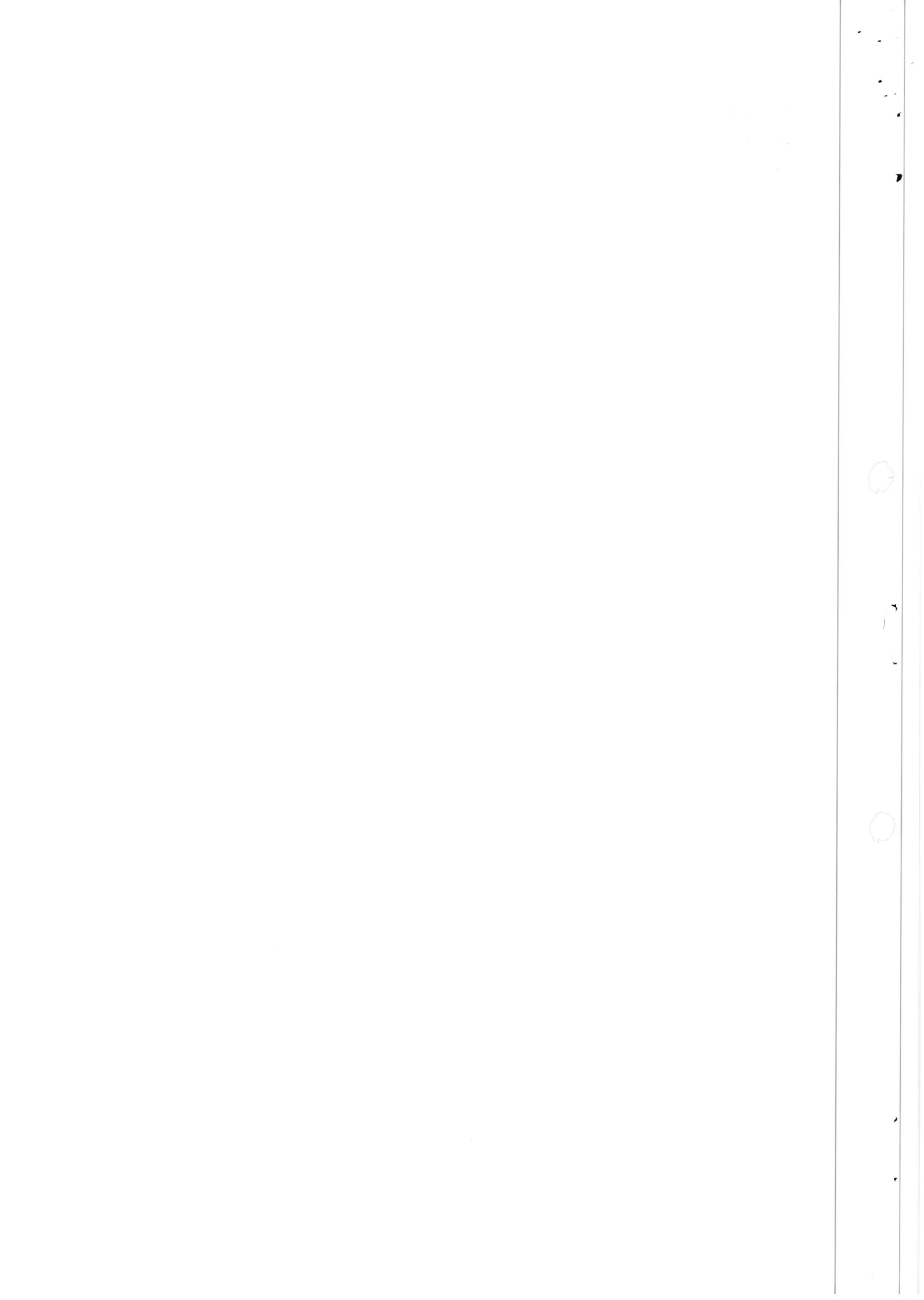
3.1.1.1 Enhancing equality and countering discrimination

(a) Discrimination against migrants

OHCHR enhanced its focus on the rights of people on the move and countering xenophobia against migrants, especially those in vulnerable situations. It played a key role in supporting and providing technical expertise to the consultations held in 2017 on the global compacts on safe, orderly and regular migration and on refugees. OHCHR also supported discussions in the Human Rights Council on issues relating to migration, including on large movements, unaccompanied migrant children, and climate change and migration.

(b) Discrimination on the basis of indigenous or minority status

The effort made by OHCHR to combat discrimination based on indigenous or minority status included raising awareness about the importance of the protection of indigenous human rights defenders, including at the high-level event to mark the tenth anniversary of the Declaration on the Rights of Indigenous Peoples and in various country contexts; launching a video showing how indigenous rights advocates invoked the Declaration to achieve human rights



progress; on the occasion of the twenty-fifth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, drawing attention to the achievements and challenges still faced in promoting and protecting minority rights; and supporting the tenth session of the Forum on Minority Issues in November 2017.

(c) Discrimination on the basis of sexual orientation and gender identity

The OHCHR-led Free and Equal campaign continued to promote equal rights for and fair treatment of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons globally, reaching hundreds of millions of people through media and national-level events in Albania, Brazil, Cambodia, Cabo Verde, Guatemala, Mongolia, Peru, Serbia, the former Yugoslav Republic of Macedonia and Ukraine. New campaign videos and factsheets launched in 2017 helped to raise awareness of bullying of LGBTI youth and the importance of culture and tradition being open to LGBTI persons.

(d) Discrimination against older persons

OHCHR assisted the Open-ended Working Group on Ageing by, inter alia, facilitating the participation of national human rights institutions in the eighth session of the Working Group. It also organized an informal consultation in New York on promoting the human rights of older persons in business.

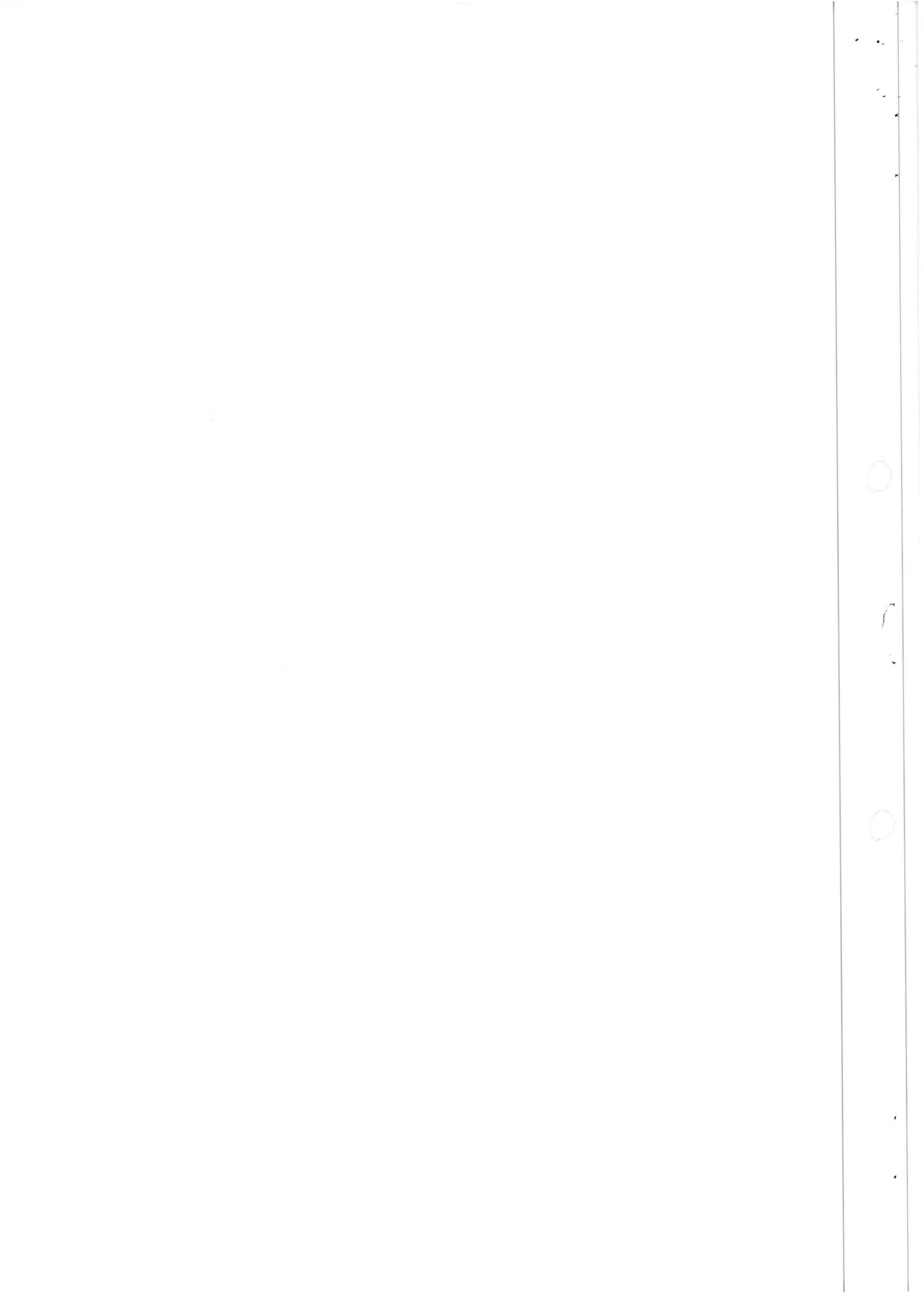
3.1.1.2 Combating impunity and strengthening accountability and the rule of law

(a) Transitional justice

OHCHR facilitated dialogue on transitional justice issues. It convened a first public regional debate in South America on transitional justice, truth, reconciliation, and access to justice. In Haiti, it hosted a workshop on the fight against impunity for past crimes and transitional justice, in cooperation with domestic and international human rights organizations.

(b) Death penalty

In May 2017, the Office organized an expert group meeting in Geneva on the linkages between the application of the death penalty and the right to equality and nondiscrimination, and in October 2017, a high-level event at United Nations Headquarters on transparency and the death penalty. It advised and advocated with States that have retained the death penalty, notably for the establishment of a moratorium pursuant to General Assembly resolution 67/176 and the implementation of international standards guaranteeing the protection of the



rights of those facing the death penalty, including in Belarus, Iran (Islamic Republic of), Iraq, Malaysia, Mauritania, Pakistan, the Philippines, Saudi Arabia, the United States of America and Palestine.

(c) Counter-terrorism and prevention of violent extremism

OHCHR moved forward with the delivery of a global human rights capacity-building project for law enforcement. Furthermore, as part of its engagement with the Task Force, it presented commissioned research on the integration of gender and women's rights perspectives into programmes on preventing and countering violent extremism.

(d) Administration of justice and law enforcement

In 2017, OHCHR and UNODC published the Resource book on the use of force and firearms in law enforcement to support States in their efforts to develop and implement more effective, accountable and human rights-based law enforcement policies.

In Fiji, OHCHR supported police efforts to review and develop policies and strengthen internal accountability mechanisms. Advocacy by OHCHR contributed to the decision by the Government of Guatemala to withdraw the army from citizen security functions by early 2018.

In Argentina, OHCHR organized a workshop with judges to discuss the role the judiciary can play in upholding women's rights by addressing wrongful gender stereotyping. An OHCHR workshop held in Eritrea for judicial and law enforcement officials focused on the issues of arrest, pre-trial detention and administrative detention; the treatment of detainees and prisoners; investigations, fair trial and appeal; and protection and non-discrimination of persons deprived of liberty.

In the Democratic Republic of the Congo, Mauritania, Tunisia, among other countries, OHCHR continued to monitor detention facilities and to provide technical advice to improve conditions of detention. In the Democratic Republic of the Congo, OHCHR supported 18 joint investigation teams with the military justice officials and mobile court hearings aimed at facilitating victims' access to justice.

3.1.1.3 Integrating human rights in development and the economic sphere

(a) Human rights in development

The Office played an active role in the context of the Secretary-General's reform initiative, including by co-chairing the results group of the United Nations Development Group on the theme "Giving voice to Common values and norms" and its leadership results group,



contributing to the development of the United Nations leadership model, subsequently adopted by the Development Group, and the strengthening of the Resident Coordinator accountability mechanism.

(b) Equality and nondiscrimination at the heart of Sustainable Development

The Office continued its efforts to integrate all human rights, including the right to development, in the implementation of the 2030 Agenda for Sustainable Development. It contributed to raising public awareness on the linkages between human rights and the Sustainable Development Goals, including at the session of the high-level political forum on sustainable development held in 2017.

Under Goal 16, OHCHR developed methodologies for compiling data on indicators on killings and other attacks on, inter alia, human rights defenders, conflict-related deaths, and the independence of national human rights institutions.

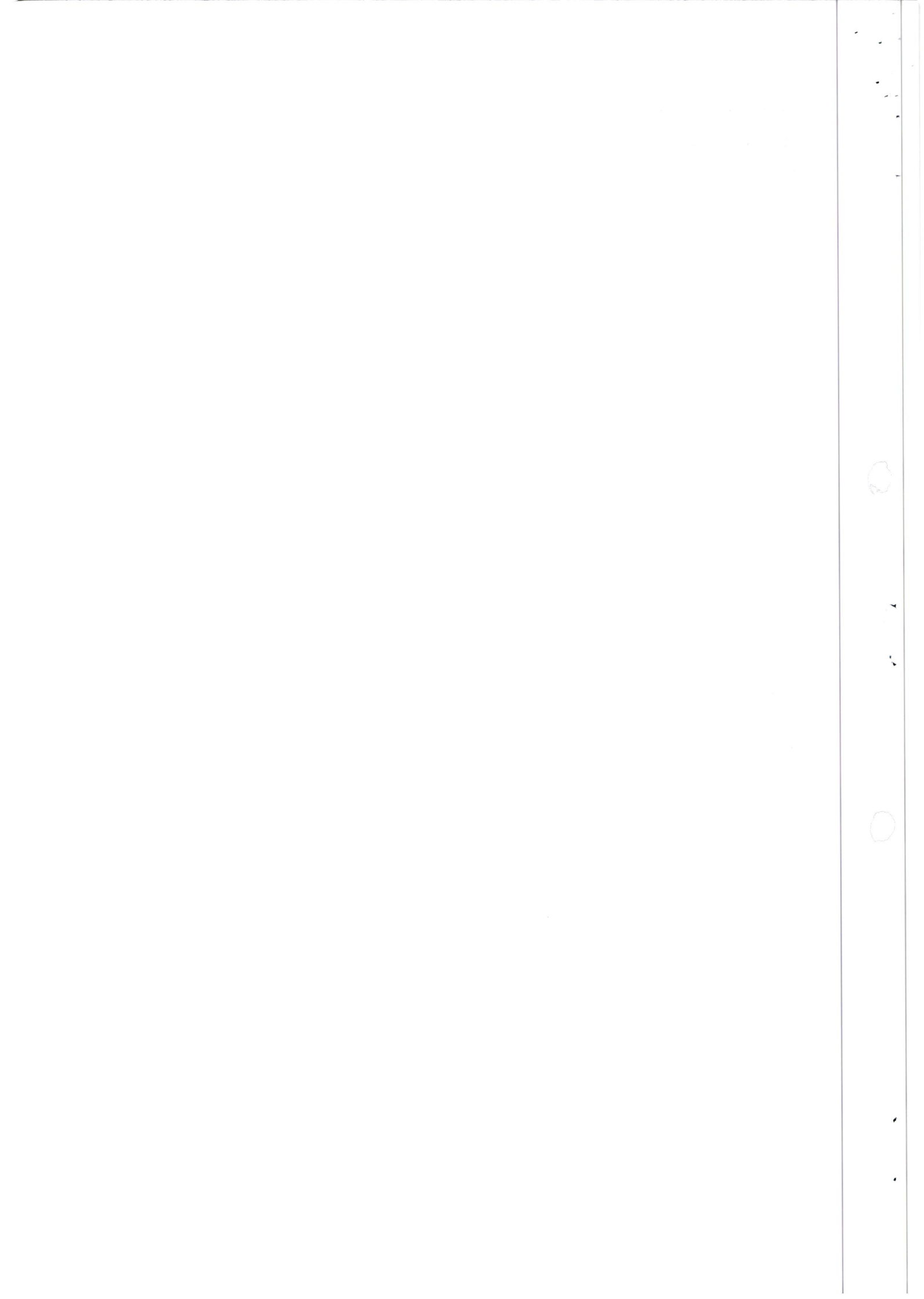
OHCHR continued to promote the integration of human rights in climate action, including in the guidelines for implementation of the Paris Agreement and the negotiations of the twenty-third Conference of the Parties to the United Nations Framework Convention on Climate Change.

3.2 Report on Right to access to justice under article 13 of the Convention on the Rights of Persons with Disabilities

(a) Access to justice

Access to justice is a core element of the rule of law. It is a fundamental right in itself and an essential prerequisite for the protection and promotion of all other human rights. Access to justice encompasses the right to a fair trial, including equal access to and equality before the courts, and seeking and obtaining just and timely remedies for rights violations. Guaranteeing access to justice is indispensable to democratic governance and the rule of law as well as to combat social and economic marginalization.

Persons with disabilities face significant obstacles in accessing justice, including criminal proceedings and the determination of civil rights and obligations. These obstacles include denial of their legal standing and due process guarantees and the inaccessibility of the physical and communication environments during proceedings.



The Convention on the Rights of Persons with Disabilities is the first international human rights instrument that enshrines an explicit right to access to justice. It calls for the elimination of obstacles and a barrier faced by persons with disabilities in accessing justice on an equal basis with others, and innovates on previous standards developed under international human rights law. The Convention not only clarifies what access to justice means for persons with disabilities, but also upholds equal and effective participation at all stages of and in every role within the justice system as a core element of the right to access to justice. The Convention thereby expands this right beyond the notions of a fair trial and effective remedies which have been the principal features put forward by human rights instruments and their monitoring bodies.

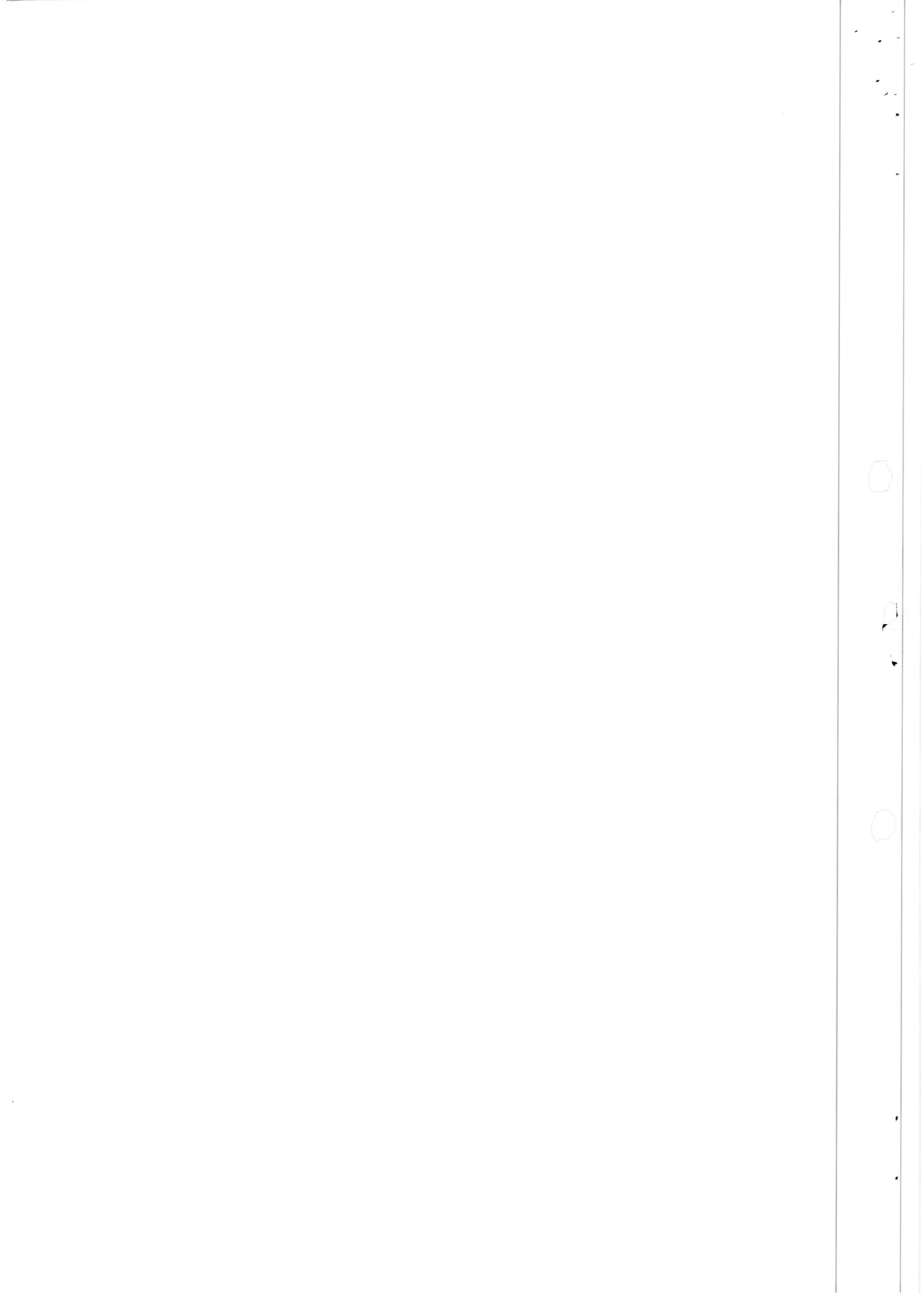
Goal 16 of the 2030 Agenda for Sustainable Development calls for promoting the rule of law and ensuring equal access to justice for all. Member States have a unique opportunity to implement article 13 of the Convention as part of their strategy to accomplish the goals of the 2030 Agenda. In order to “leave no one behind”, under the Agenda Member States commit to the principles of equality and non-discrimination, including for persons with disabilities, as a cross-cutting feature of all Sustainable Development Goals.

International cooperation has a key role in advancing the right to access to justice of persons with disabilities, as recognized in both the Convention and the 2030 Agenda. Technical and financial cooperation should adopt a twin-track approach by mainstreaming the rights of persons with disabilities and adopting disability-specific programmes; disability markers can contribute to monitoring their implementation.

(b) Evolution of the right to access to justice in international human rights law

The right to access to justice has developed over time in international and regional human rights instruments, although it was not explicitly formulated as such until the adoption of the Convention. The Universal Declaration of Human Rights provides for the right to equality before the law without discrimination, equal protection under the law, the right to an effective remedy for violations of rights, the right to a fair and public hearing by an independent and impartial tribunal, and the presumption of innocence.

Similarly, the International Covenant on Civil and Political Rights recognizes these principles and rights. The Covenant, as interpreted by the Human Rights Committee, provides several



due process guarantees for the conduct of judicial proceedings to ensure the right to a fair trial that apply to any judicial body with any legal competence.

Further, the Human Rights Committee has determined that States parties are required under the Covenant to guarantee that individuals have accessible and effective remedies to assert their rights, which should be appropriately adapted so as to take into account the specific requirements of different populations.

The Committee on the Elimination of Discrimination against Women adopted a general recommendation on women's access to justice in which it recognized that effective access to justice optimizes the emancipatory and transformative potential of the law. It encompasses justiciability, availability, accessibility, good quality, the provision of remedies and accountability of justice systems.

The Committee on the Rights of the Child also calls for particular attention by States parties to ensure that effective, child-sensitive procedures are available to children and their representatives in accessing independent complaint procedures and courts.

(c) Convention on the Rights of Persons with Disabilities

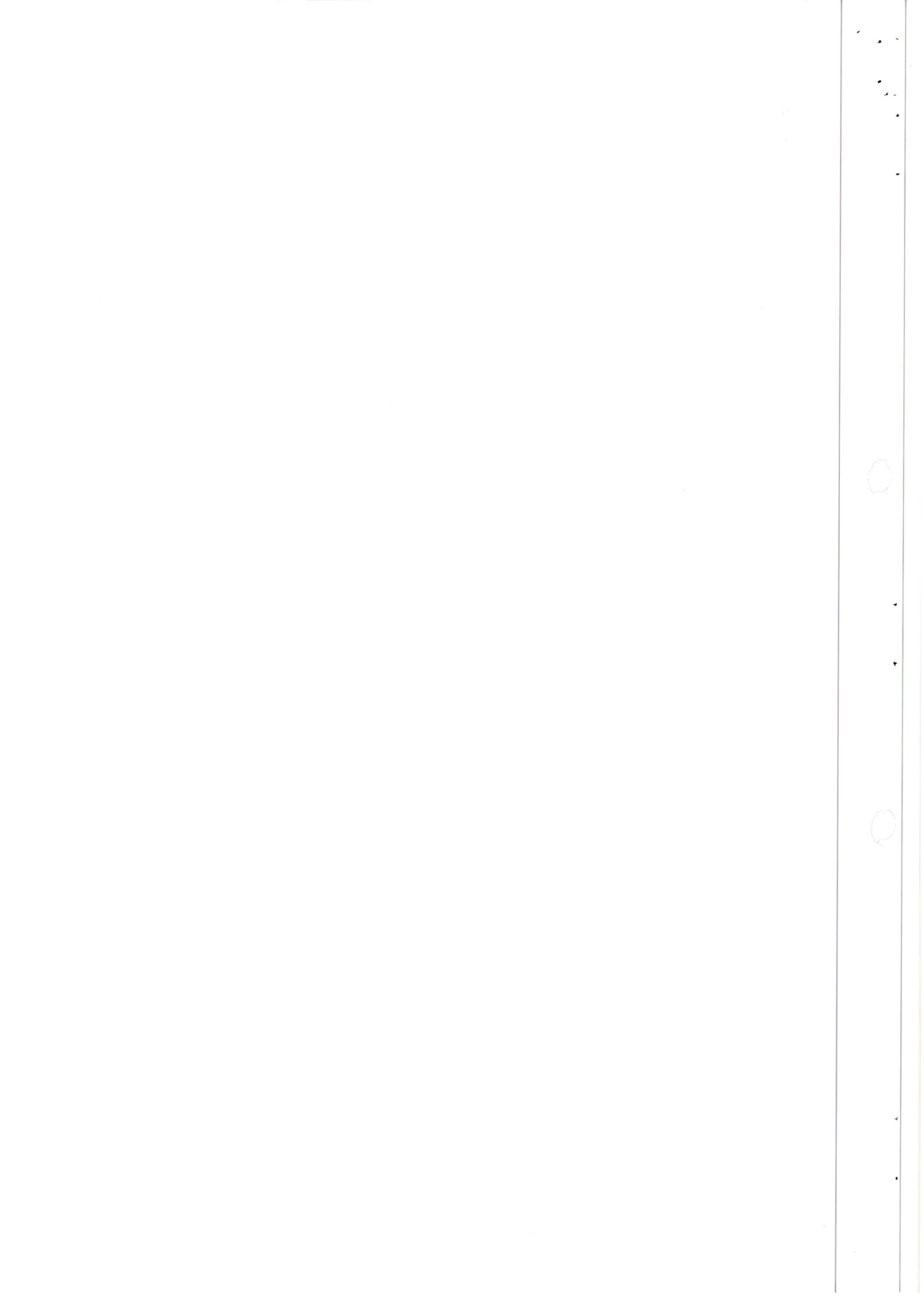
The Convention introduced innovations that expanded the classical notion of access to justice. It underscores the fact that access to justice for persons with disabilities entails not only the removal of barriers to ensure access to legal proceedings to seek and obtain appropriate remedies on an equal basis with others, but also the promotion of the active involvement and participation of persons with disabilities in the administration of justice.

During the negotiations on the Convention, the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities initially considered including this right within parts of other articles of the Convention. Ultimately, it decided to create, for the first time in a human rights treaty, a specific provision formulated as the right to access to justice.

(d) Access to justice of persons with disabilities

Equality before the courts and right to a fair trial

The Convention calls for substantive equality, "which includes both equality of opportunities and equality of outcomes", and article 13 (1) explicitly requires States parties to "ensure access to justice for persons with disabilities on an equal basis with others". The right to



equality before the courts and tribunals and to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard the rule of law.

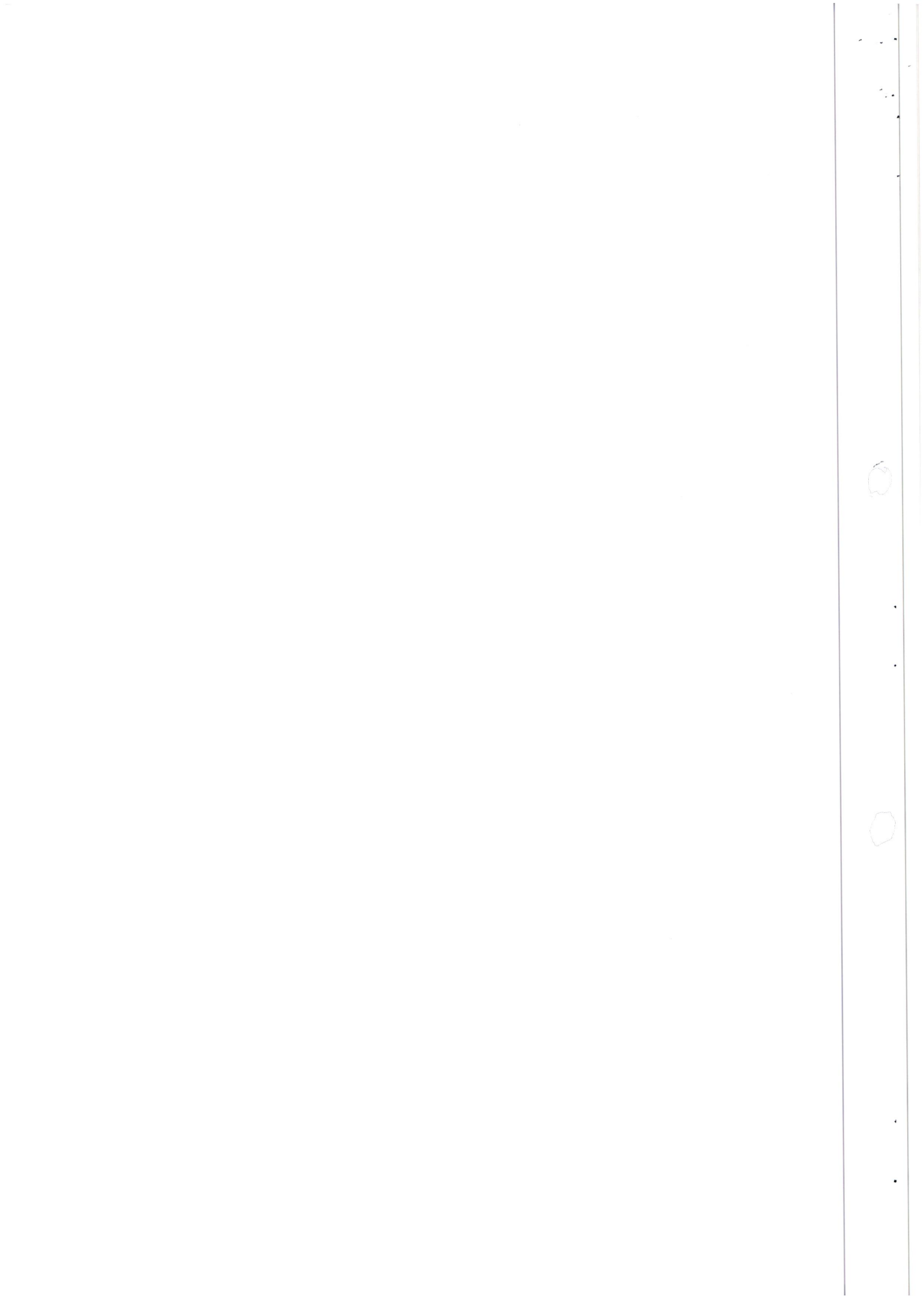
Accessibility and access to information

Persons with disabilities may face physical barriers to accessibility, such as barriers which render the act of physically entering police stations or courts impossible. Communication barriers may prevent access to information, understanding legal procedures or exchanges with judges, lawyers and other interlocutors. Further, many persons with disabilities are impeded from accessing courts and claiming their rights as a result of confinement to institutions or being isolated in their homes, without recourse to outside contact to lodge complaints. In addition, lack of information on their rights and how to invoke them before courts and authorities pose barriers to seeking remedies. Effective access to information and communication allows persons with disabilities to know and defend their rights. The use of accessible information and communications technologies, in particular through their application to delivering government services (egovernance), can contribute to improving access to justice and access to information.

Several good practices illustrate the possibilities of guaranteeing that legal information and communication are accessible to persons with disabilities. The Constitutional Court of Colombia and the Supreme Court of Mexico called for the translation of judgments concerning the rights of persons with disabilities into easy read formats for the benefit of the petitioners and other persons with intellectual disabilities. In Finland, the police have designed their website to provide a range of accessible formats, such as plain language, content and videos in sign language, some of them captioned, and a complaint form in large print. States should implement mechanisms to monitor their legal proceedings and evaluate the success of their policies with regard to access to justice. For example, States could establish markers that allow for the identification of persons with disabilities who access the justice system and the outcomes. Existing systems could also include data collection tools that allow for disaggregation, such as the Washington Group on Disability Statistics Short Set of Questions.

Right to claim justice and stand trial

Deprivation of legal capacity and substituted decision-making arrangements can prevent and exclude persons with disabilities from participating in legal proceedings and may force their representation by a third party, such as a legal guardian. The exercise of legal capacity is



intrinsically connected with the right to access to justice, as often the second cannot be exercised without the first.

At the same time, without access to justice, persons with disabilities cannot challenge deprivation of their legal capacity or the denial or restrictions of their rights that ensue as a result.

Presumption of innocence

The presumption of innocence is a fair trial principle that guarantees that an accused person maintains innocence until proven guilty. In certain legal systems, persons with disabilities found “unfit to stand trial” or exempted from criminal responsibility on the basis of their psychosocial or intellectual impairment are commonly diverted from proceedings and subjected to security measures entailing committal or forced treatment in mental health facilities under a regime of impairment-based detention, which may be of an indefinite duration. As trial is not pursued and no conviction obtained, instead of being based on a finding of guilt, security measures are ordered based on the individual’s alleged “dangerousness” to self and others.

Such court orders constitute unequal treatment, as they are based on perceived “dangerousness”, impairment or impairment-related assumptions, rather than on a determination of culpability for the commission of a crime through due process. These practices culminate in the abandonment of the individual’s right to the presumption of innocence and in the denial of due process safeguards that should be applicable to every person, as recognized in international law. The Committee has accordingly called for them to be repealed.

Legal aid

The absence of free legal aid is one of the most common barriers to equality of arms and equal access to justice, particularly for persons with disabilities, who number disproportionately among the world’s poor and face challenges in affording legal advice and representation. The right to legal counsel is a fair trial right and includes the right to free legal aid. The Committee has raised concerns about the lack of available free legal aid for persons with disabilities, including for those living in institutions, and for women and girls with disabilities facing violence or abuse. In some countries where legal aid services have been established, in practice they lack the necessary resources; do not operate on an independent



basis; are inaccessible to persons with disabilities; or lack sufficient expertise about the rights of persons with disabilities.

States parties should increase their efforts to guarantee legal aid for persons with disabilities, enacting legislation and allocating resources to support the provision of free legal aid. Legal aid should be accessible, and States parties must ensure the availability of services and information using multiple means, modes and formats of communication across their whole territory. For example, in Canada, the Ontario Legal Aid Office provides all information online in alternative formats and trains employees on communicating with people with various types of impairments.

Right to an effective remedy

The right to an effective remedy is a central component of the right to access to justice and an element inherent in the effective enjoyment and exercise of all rights. The Committee has documented many examples of ineffective remedies for persons with disabilities involving the failure on the part of the authorities to act with due diligence to investigate, prosecute and punish perpetrators and/or provide remedies.

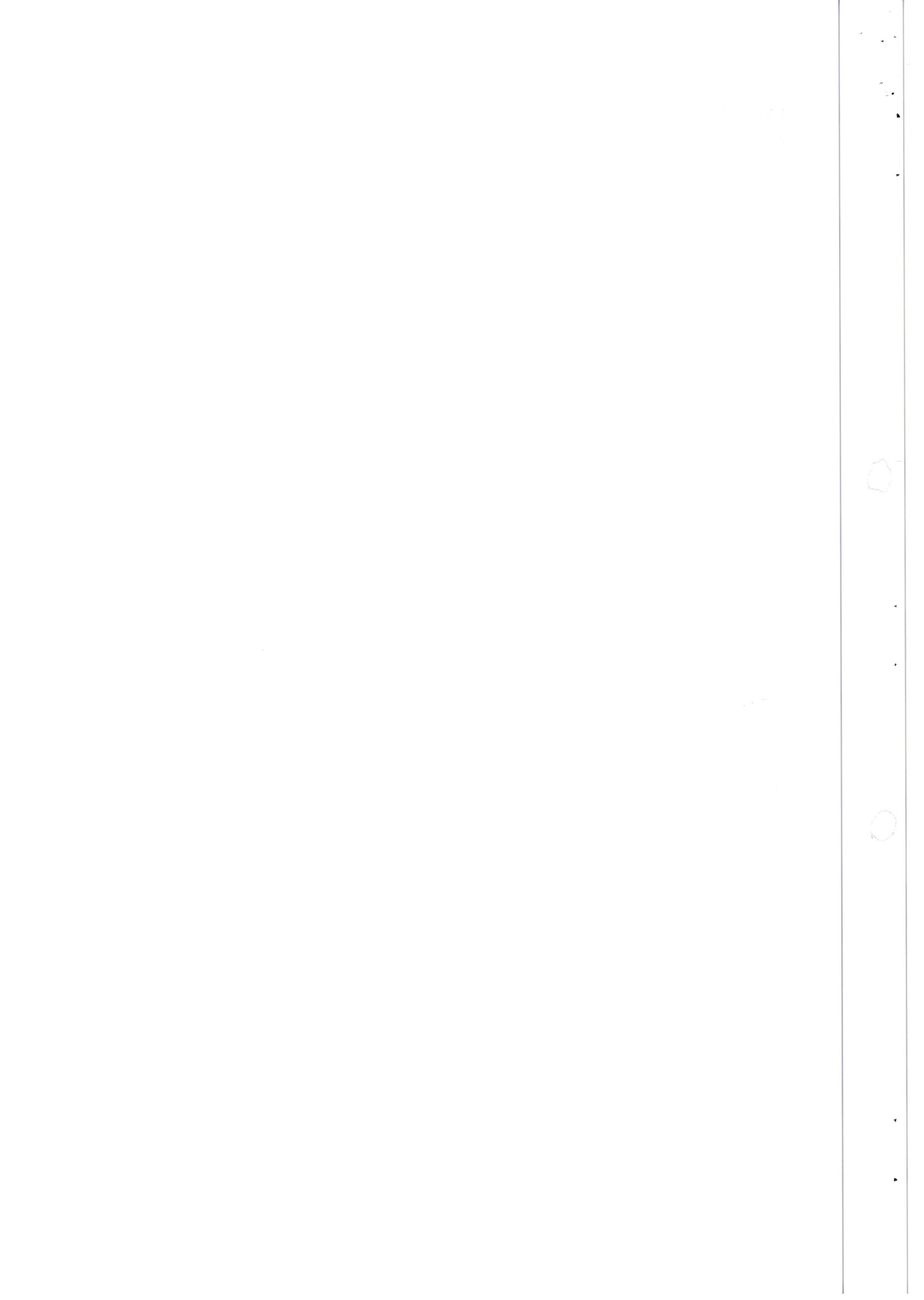
To have effective remedies, persons with disabilities require: (a) equal and effective access to justice (i.e., available and accessible complaint mechanisms, investigation bodies and institutions, including independent judicial bodies capable of determining the right to reparation and awarding redress.

Duty to investigate

As set out in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, States have the duties to investigate and, if there is sufficient evidence, to prosecute the person allegedly responsible for violations and, if found guilty, to punish him or her.

Independent monitoring frameworks

Independent monitoring frameworks designated under article 33 (2) of the Convention, including national human rights institutions, can play a significant role in strengthening access to justice for persons with disabilities, particularly when sufficiently resourced to independently monitor and promote the implementation of the Convention. Beyond monitoring, for example for the purposes of preventing and identifying violations in



accordance with article 16 (3), these institutions may be mandated to receive and address complaints relating to human rights violations. Through their work, they can help identify barriers faced by persons with disabilities in accessing justice by documenting them and make recommendations to address them, including by calling for urgent policy or legal reforms. Further, they are central to raising awareness about the rights of persons with disabilities and can assist Governments in the design and delivery of training programmes to judges, legal professionals, police staff and other stakeholders. Such mechanisms should work closely with persons with disabilities, providing them with accessible information about their rights and assisting them in making complaints or seeking appropriate remedies.

Redress and reparation

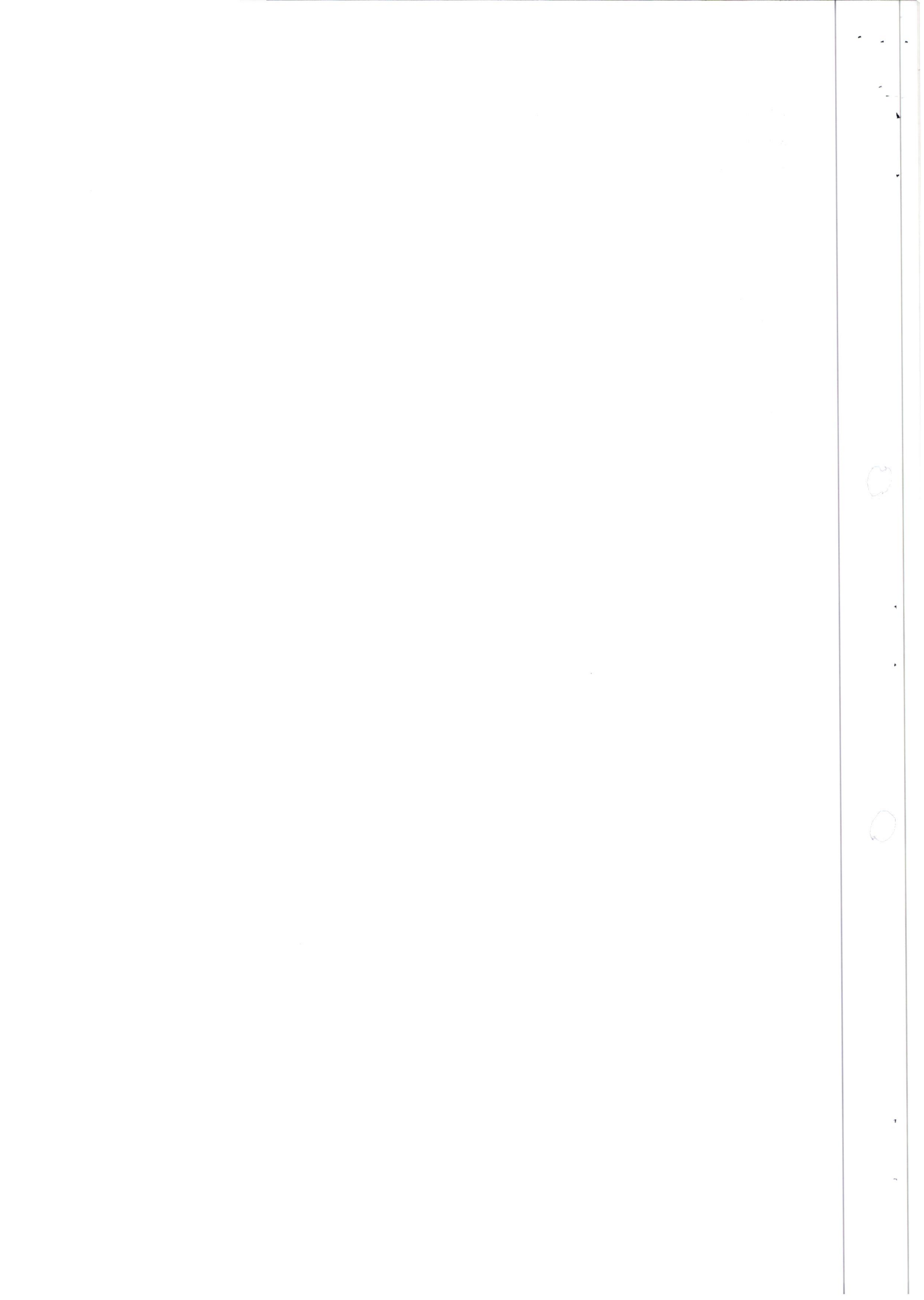
Courts and other jurisdictional bodies should pay specific attention to redress and reparation when providing for specific remedies for persons with disabilities, ensuring that the remedy for the violations of the human rights at stake is proportionate to the overall objective of restoring the dignity of the victim.

Training in the fields of administration of justice and legal education

Attitudinal barriers affect access to justice for persons with disabilities, as they may negatively influence the way in which laws, legal policies, procedures and practices are implemented. Often, these attitudinal barriers stem from lack of awareness of the rights of, and appropriate practices for, persons with disabilities in the justice system on the part of police officers, public defenders and professionals working as public defenders or providing legal aid, legal service providers and others. The provisions of article 13 (2) promote appropriate training as a measure to overcome these barriers. States parties should design and deliver mandatory regular training programmes, which should be properly funded, involving persons with disabilities at all stages of legal proceedings, including in rural areas.

3.3 Summary of the discussions held during the seminar entitled “Exchanging national experiences and practices on the implementation of effective safeguards to prevent torture and other cruel, inhuman or degrading treatment or punishment during police custody and pretrial detention”

Discussion focused on three main topics: legal and judicial safeguards for the prevention of torture; implementation of practical measures to prevent torture and ill-treatment; and oversight and complaint mechanisms.



Overview of panel presentations and discussions

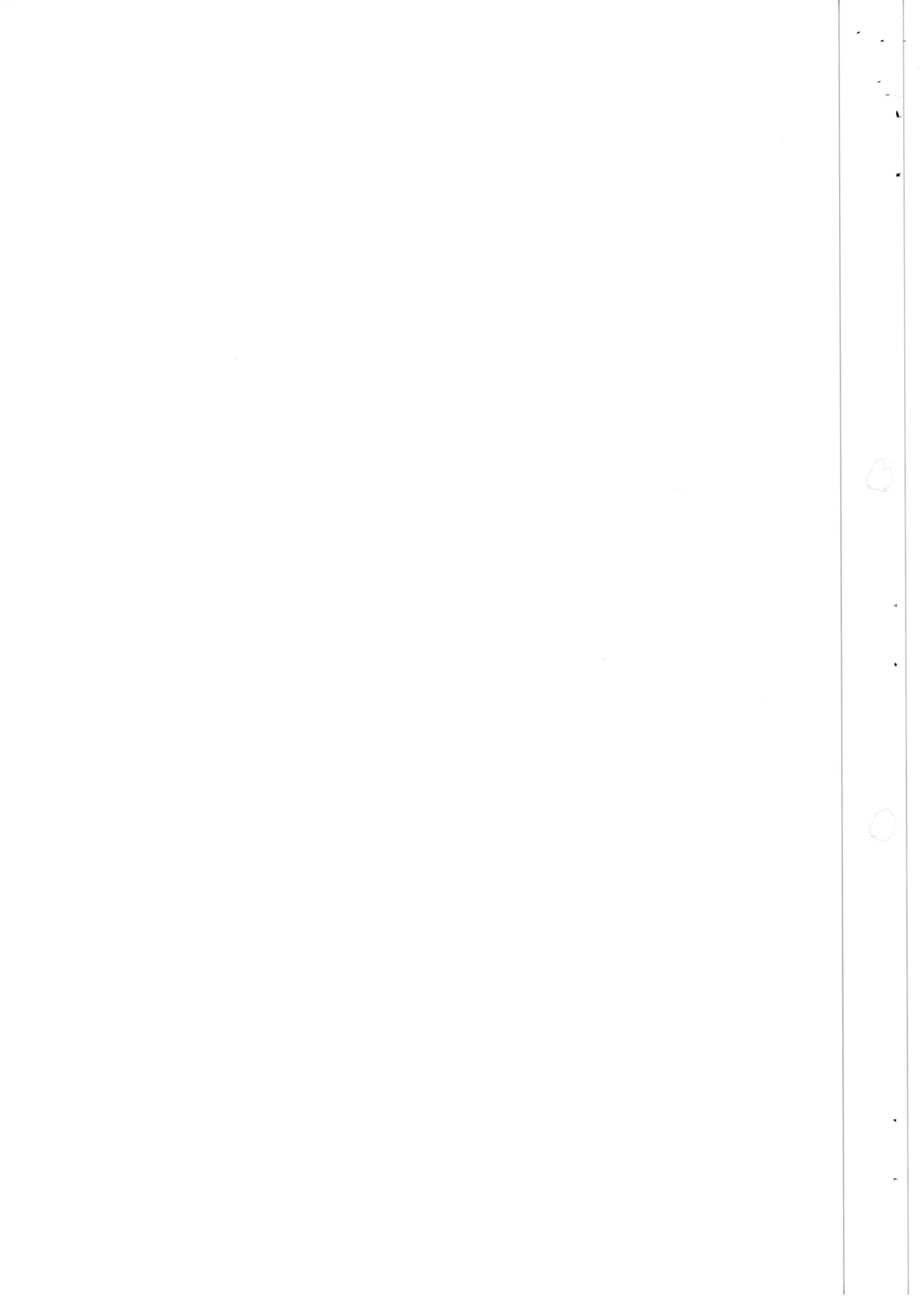
Representatives of the following States were present: Afghanistan; Algeria; Argentina; Australia; Austria; Brazil; Bulgaria; Chile; Colombia; Denmark; Dominican Republic; Egypt; Estonia; Finland; Germany; Greece; Hungary; Iraq; Ireland; Japan; **Kenya**; Liechtenstein; Lithuania; Morocco; Mexico; Portugal; Qatar; Republic of Korea; Rwanda; San Marino; Sierra Leone; Slovenia; Spain; Sweden; Switzerland; Turkey; Ukraine; United Kingdom of Great Britain and Northern Ireland; United States of America; and Venezuela (Bolivarian Republic of).

Opening statement

The Director of the Thematic Engagement, Special Procedures and Right to Development Division of OHCHR delivered the opening remarks. In her introduction, she observed that the existence of several different mechanisms to combat torture, and the international legal framework that unambiguously prohibited torture, demonstrated the importance that the international community attached to preventing torture and cruel, inhuman or degrading treatment or punishment. However, despite that, and the fact that torture as a method of investigation had been shown to be ineffective and to produce unreliable information, torture and ill-treatment of persons during police custody and pretrial detention continued. She emphasized that the risk of torture and other forms of ill-treatment was greatest in the first hours and days after arrest and those were the periods when detainees were most likely not to have access to legal assistance, independent medical examinations or anyone else who could raise concerns. Once detainees were moved to longer term pretrial detention, they often faced dire conditions that might amount to ill-treatment.

A. Legal and judicial safeguards for the prevention of torture - Barbara Bernath, Chief of Operations of the Association for the Prevention of Torture moderated the first session.

The panelists were: the Special Rapporteur on torture; José Antonio Dias Toffoli, Vice-President of the Supreme Federal Court of Brazil; and Silvana Donoso, Judge at the Court of Appeals of Valparaiso, Chile. In her introductory remarks, Ms. Bernath referred to research commissioned by the Association for the Prevention of Torture that had found that the implementation of safeguards against torture in police custody and pretrial detention was one of the most effective means of reducing torture.



The Special Rapporteur drew attention to the importance of the inspection and monitoring of places of police custody and pretrial detention by independent national or international mechanisms, such as national preventive mechanisms, the Subcommittee on Prevention of Torture, the Special Rapporteur, and the International Committee of the Red Cross in the context of armed conflicts. Adequate laws and safeguards needed to be implemented and all allegations of torture must be investigated.

Mr. Kvaratskhelia emphasized the importance of an effective complaints mechanism to offer redress and a national preventive mechanism to promote safeguards against torture. He described the role of the Office of the Public Defender, the national preventive mechanism of Georgia under article 3 of the Optional Protocol to the Convention against Torture.

Ms. Ilminska offered examples of internal and independent complaints mechanisms and investigations in different regions. In Canada, she highlighted the work of the Office of the Independent Police Review Director, which was mandated to investigate claims made against the police, and noted that police were wary of the Office as they knew mistreating detainees carried serious sanctions. She also mentioned the Canadian Special Investigations Unit (a civilian law enforcement agency, independent of the police, and an arms-length agency of the Ministry of the Attorney General). The Unit conducted independent investigations to determine whether a criminal offence had taken place in incidents in which police officers were involved and someone was seriously injured or died or there was an allegation of sexual assault. It had prosecutorial powers and was composed of civilians and former police officers. The head of the Unit could not be a former police officer in order to avoid a conflict of interest. The Unit communicated regularly with the media. Another example was the United Kingdom Independent Police Complaints Commission, an independent organization that oversaw police complaints in England and Wales.

Ms. Ilminska also mentioned the Independent Police Investigative Directorate of South Africa, which conducted independent investigations into allegations of criminal offences committed by members of the South African Police Service and metropolitan police services, and the South African Judicial Inspectorate for Correctional Services, which enabled a judge to inspect and report on the conditions and treatment of inmates in correctional centres. Although those centres received government funding, they asserted their independence. She

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also referred to the Commission on Human Rights and Administrative Justice in Ghana, which, although it had the power to look into allegations of mistreatment in detention, did not have the power to prosecute.

3.4 Summary report on the panel discussion of the impact of multiple and intersecting forms of discrimination and violence in the context of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of all human rights by women and girls

The Permanent Representative of Brazil to the United Nations and other international organizations in Geneva, Ambassador Maria Nazareth Farani Azevêdo, moderated the panel. The panel comprised the following experts: a member of the Committee on the Elimination of Discrimination against Women, Hilary Gbedemah; a professor at the department of economics at University del Valle in Colombia, Carlos Augusto Viáfara López; a researcher and former United Nations youth delegate for Belgium, Warda El Kaddouri; and the Chair of the Committee on the Elimination of Racial Discrimination, Anastasia Crickley.

In her opening remarks, the Deputy High Commissioner emphasized that unequal opportunities and impediments to human development were rarely attributable to discrimination based on a single dimension of a person's identity. People most affected by discriminatory practices usually faced multiple and intersecting forms of discrimination, which denied them their basic human dignity. She underlined that, although aggregated data showed important progress in the realization of women's human rights, when data were examined more closely in respect of other dimensions of the human condition, such as racial or ethnic origin, nationality, disability and minority or migration status, deep inequalities revealed themselves.

Women from minority groups were more likely to live in poverty, to have lesser access to health services, housing and quality education, to experience violence and to have limited participation in their communities and in public decision-making. She argued that those disparate and unfair outcomes were the result of intersecting and multiple forms of discrimination and were found across regions.

Bigotry, discrimination and xenophobia went against international human rights norms and standards, which had resulted from long-standing calls and commitments of the international community.



The 2030 Agenda was the most recent authoritative reiteration of the call to ensure equality of opportunity and end discrimination, in particular through Goal 5, on achieving gender equality and empowering all women and girls, and Goal 10, on reducing inequality within and among countries. The Deputy High Commissioner importantly noted that development could not be sustainable when not enjoyed by all, and when social and economic systems created societies stratified not by effort, contribution or achievement but by nationality, race and gender. She argued that the 2030 Agenda was grounded in human rights for a good reason, namely because human rights violations that drove marginalization and exclusion had no place in a peaceful and prosperous world.

Ms. Gbedemah further analysed some of the compounding factors that underwrote intersectional discrimination and violence. These included (a) the lack of awareness of the problem and its extent; (b) poverty; (c) the absence of statistical information related to the situation of women from specific groups, including the prohibition of collection of data on the basis of ethnicity; (d) the absence of legislation and other measures; and (e) inadequate allocation of resources. The lack of involvement of women in decision-making processes, patriarchal practices and norms, and barriers in accessing justice and services such as education, health care, credit facilities and community services were also identified as key factors that enable intersectional discrimination.

Affirmative action policies or special measures to tackle cumulative disadvantages on the basis of race and gender were identified as adequate approaches for achieving greater equality for Afro-descendent women. However, some public policies adopted to date had overlooked ethnic-racial considerations, thus reducing their effectiveness.

Mr. Viáfara López stressed the importance of having policies specifically aimed at women and girls from minorities and specific groups. Affirmative action policies should be driven by the State instead of the market, and campaigns should be conducted to ensure workplaces that are more balanced with respect to gender and ethnicity, and better employment opportunities for women. Revenue-generating opportunities for women of African descent would help improve their overall situation.

Ms. El Kaddouri commented on the impact that the rise of populist rhetoric and increased manifestations of racism, racial discrimination and xenophobia had had on women's and



girls' rights. Muslim women were one of the most vulnerable social groups in certain countries, given that they were discriminated against on multiple grounds, including sex, race and religion. She referred to the increasing number of reports of Muslim women being victims of racist and sexist hate crimes and hate speech. Restrictions on the wearing of religious or traditional symbols, such as the veil, affected the ability of women to freely decide and choose their dress and restricted the enjoyment of other rights.

3.5 United Nations Educational Scientific and Cultural Organization (UNESCO): World programme for human rights education: What focus for the fourth phase?

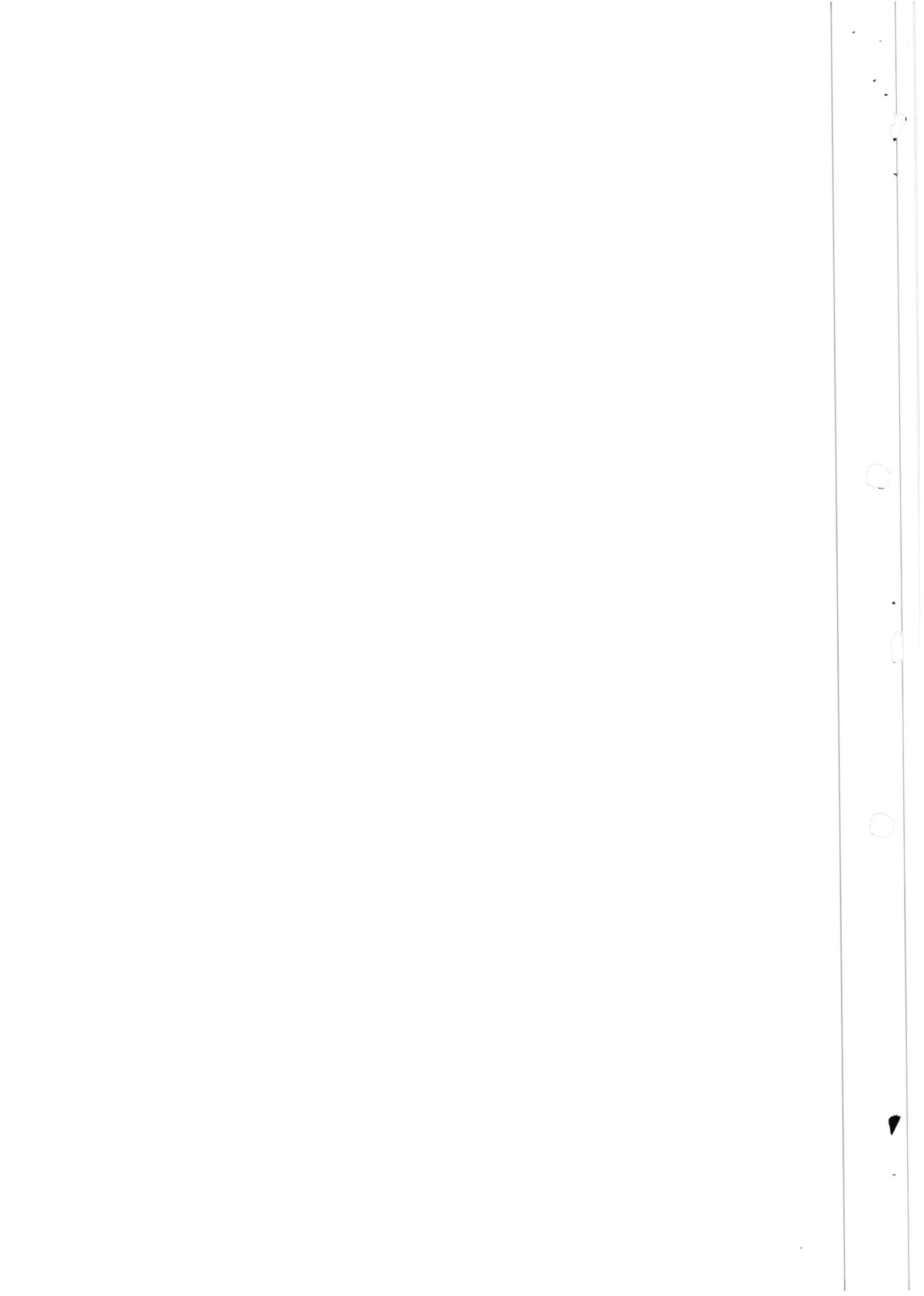
This meeting was organized by permanent missions, intergovernmental organizations, specialized agencies and department of public information. It was coordinated by UNESCO. The meeting concerned the inclusion of Human rights subjects at all levels of our education system. It was noted that inclusion of human rights in the school curriculum would help children to develop a sense of common humanity, sharing of values and responsibility based on human rights.

It was stressed that inclusion of human rights in school curriculum will bring about behavior change in children to appreciate the fact that they belong to a common global humanity. All members were in agreement that by 2030, all learners should have acquired skills and knowledge to achieve sustainable development. They noted that human rights subject should be recognized like any other subject like mathematics or physics and not seen as an inferior.

3.6 The Commonwealth Secretariat: Panel discussion of safe schools

The meeting was moderated by the commonwealth secretariat and mainly dealt with the issue of safety in schools globally. During the discussion, it was noted that without safety in schools, there is no good learning environment and therefore very little learning takes place. It was highlighted that 73 states have endorsed safe school declaration and the UN is looking forward to achieving 100 states. It was reported that Nigeria is a good example in Africa which has embraced the safe school declaration principles. It was also reported that out of 53 states that form commonwealth nations, only 13 have signed the declaration which members said it was very discouraging.

The members agreed that safe school includes all learning environment in totality which includes classrooms, utility areas, playing fields, dormitories, security from abductions and



fires among others. Norway was cited among the best worldwide in safe schools where even their military institutions are located in remote areas far away from schools.

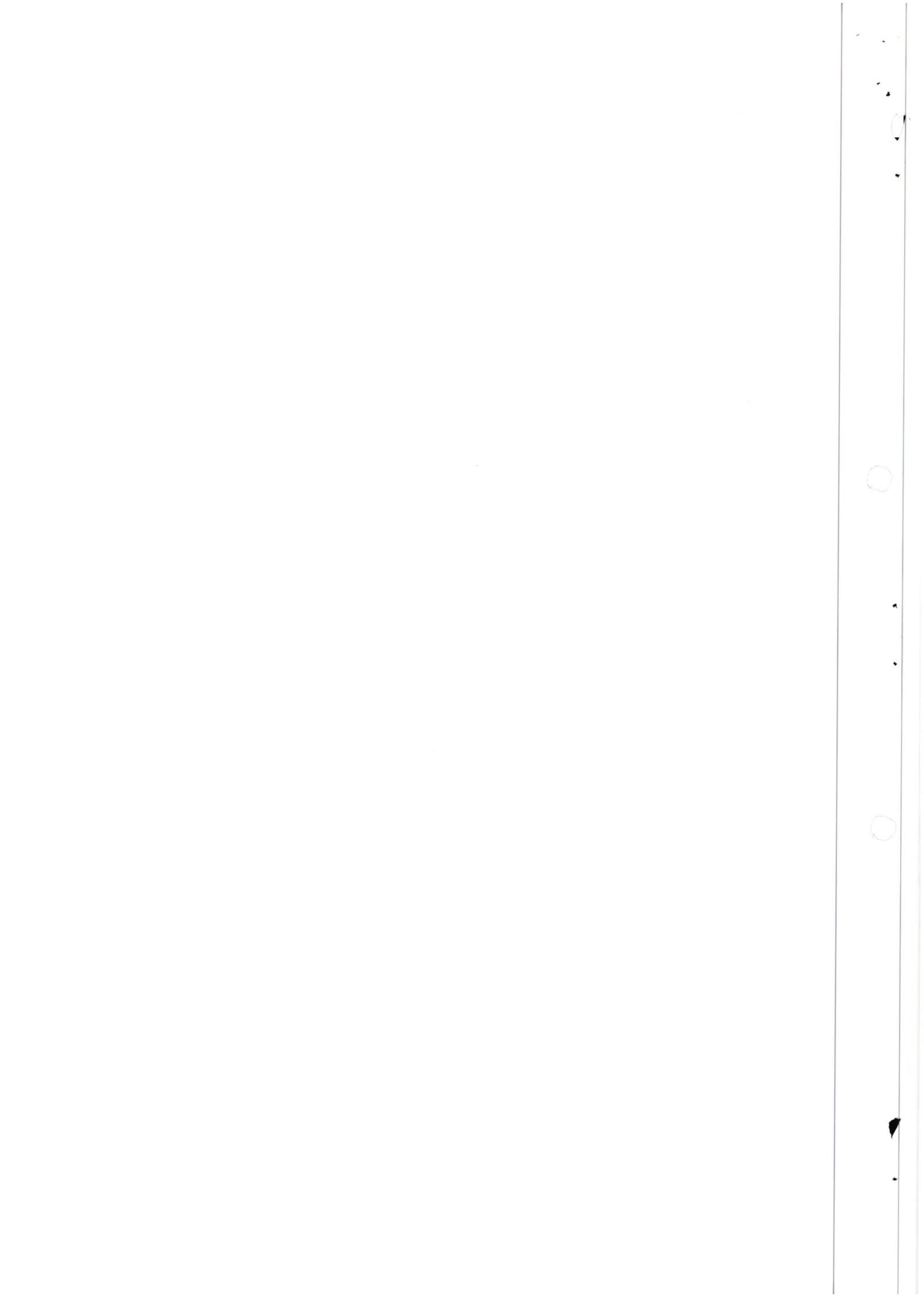
3.7 Question of the realization in all countries of economic, social and cultural rights Report of the Secretary-General on the role of economic, social and cultural rights in building sustainable and resilient societies for the implementation of the 2030 Agenda for Sustainable Development

The 2030 Agenda for Sustainable Development is unequivocally anchored in human rights and has at its heart the commitment to leave no one behind and to reach the furthest behind first. Member States have committed to reducing inequalities as a pathway towards sustainable development. It aims to address the multidimensional causes of poverty, inequality and discrimination, and reduce the vulnerabilities of the most marginalized people, including women, refugees, internally displaced persons, migrants, minorities, indigenous peoples, stateless persons and populations affected by conflict and natural disasters.

Disasters, crises and conflicts, including those induced by climate change, pose a significant threat to progress towards sustainable development and the realization of all human rights, including economic, social and cultural rights. The present report has shown that natural hazards are not disasters in and of themselves. They become disasters depending on the multiple and complex interplay between the exposure, vulnerability and resilience of individuals and communities. Economic, social and cultural rights and other relevant human rights, such as the right to life, the right to public participation and the right to information, contribute to efforts towards building resilient and sustainable societies because of the close interlinkages that exist between those rights and the impact and root causes of such events. The international human rights framework offers normative standards and guidance for States and others to take preventive action to reduce exposure and vulnerability and to enhance resilience, as well as to provide effective mitigation.

A number of actions that need to be taken from a human rights perspective in building the resilience of people and communities towards sustainable development, have been identified in the present report, inter alia:

(a) To respect, protect and fulfil economic, social and cultural rights and other relevant human rights at all times, which serves to strengthen the resilience of people and communities in times of disasters and crises;



(b) To gain a broader understanding of resilience, not limited to natural or scientific interpretations, but encompassing the full range of human rights, in order to develop measures to address the complex interplay of cultural, economic, environmental, political and social factors that are at the root of disasters and crises;

(c) To empower people affected by disasters and crises, so that they can effectively participate and exercise their rights in planning and recovery processes;

(d) To address inequality and discrimination, this is critical in reaching those who are left furthest behind first, who are typically most at risk and disproportionately affected by disasters and crises. To disaggregate data to identify who is being excluded or discriminated against, determine the root causes of inequality and discrimination, address unequal power relations and enhance the effective participation of people in decision-making processes that affect their lives, as essential elements of a human rights-based approach;

(g) To fully integrate human rights and particularly economic, social and cultural rights into early warning and prevention efforts. Despite the inextricable linkages between economic, social and cultural rights and sustainable development, disasters, crises and conflicts, more efforts towards full integration of those rights into existing frameworks on disaster risk reduction and conflict prevention are needed;

(h) To honour and strengthen the climate change mitigation and adaptation commitments made by States under the Paris Agreement on Climate Change and effectively implement the Sendai Framework for Disaster Risk Reduction.

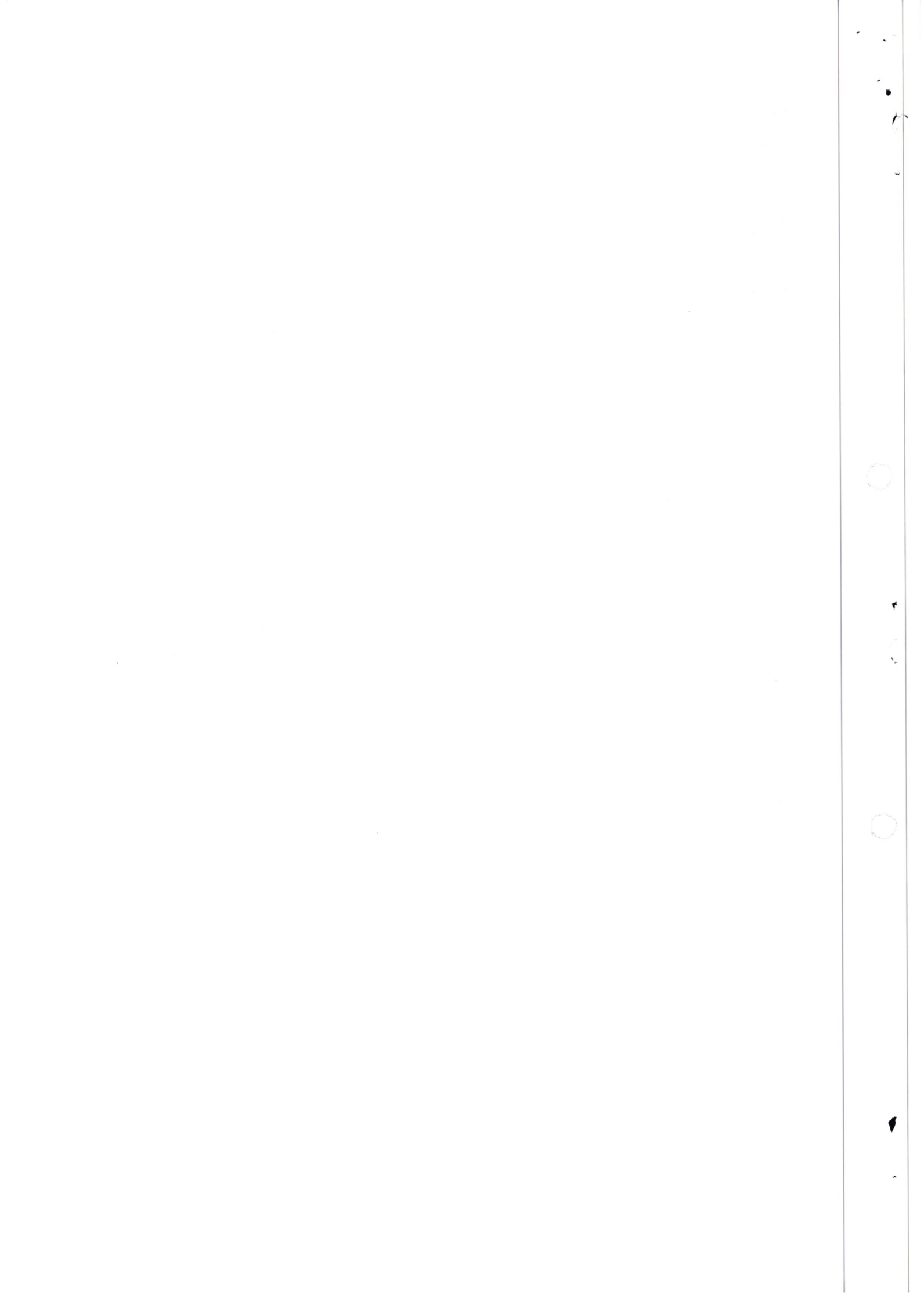
3.8 Protecting the rights of the child in humanitarian situations

It is fundamental that States, in accordance with international human rights law and their obligations under international humanitarian and refugee law, give priority to the rights of children in humanitarian situations.

The best interests of the child should be at the forefront of all decision-making processes, and children empowered to participate in the assessment, design, implementation and monitoring of humanitarian assistance activities.

In this light, the United Nations High Commissioner for Human Rights recommends that States, in cooperation with international organizations, civil society and the private sector:

(a) Conduct child-focused planning and assess child protection risks when making provisions for emergency preparedness, humanitarian response and assistance;



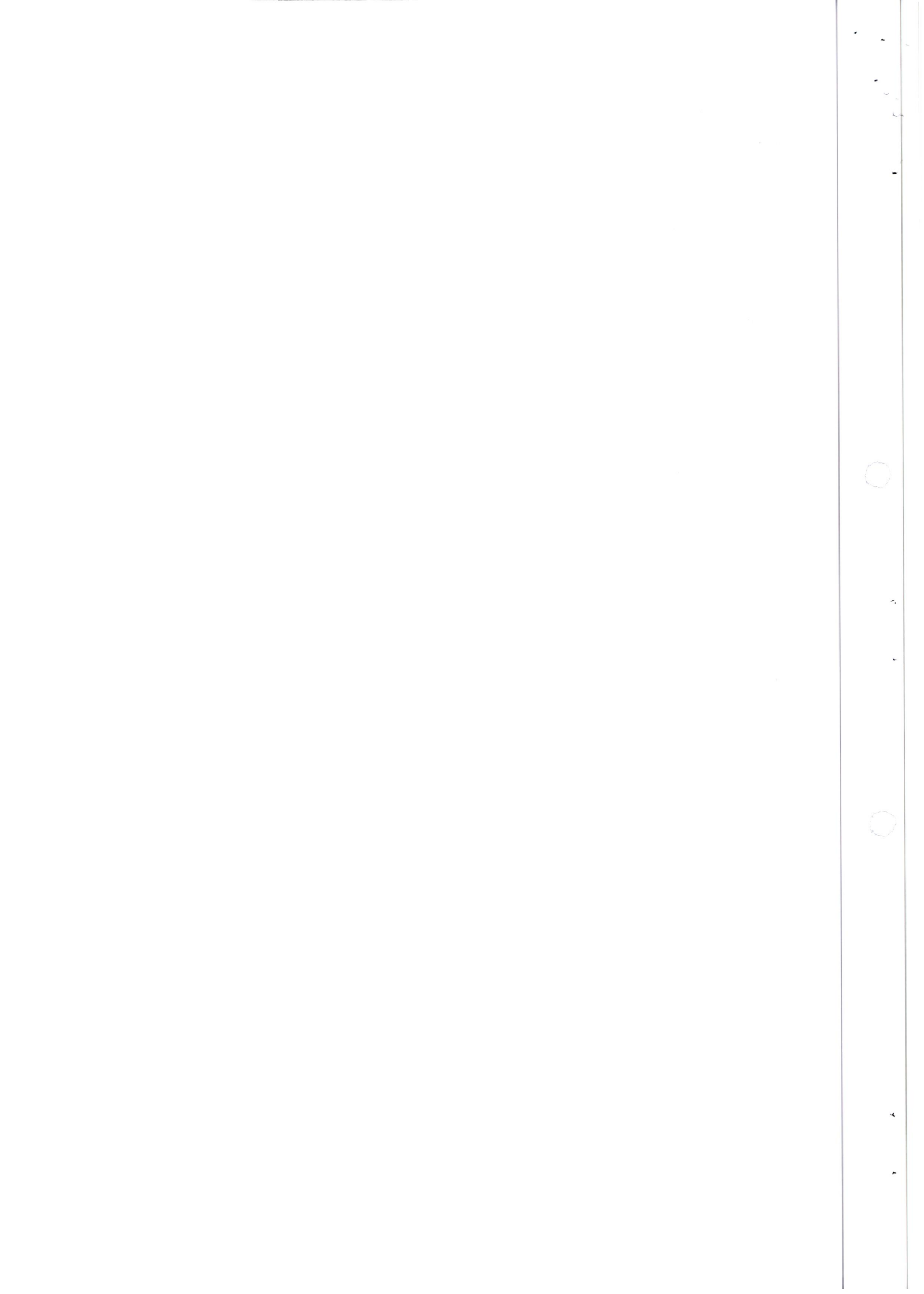
(b) Ensure that that no child is denied access to humanitarian assistance; States should also ensure the safety of humanitarian personnel, and that humanitarian aid can be delivered without impediment;

(c) Promote child-centred innovation, empowering children to be agents of change and building their resilience through the development of innovative child centred participatory approaches; children must be involved in their own protection, and supported in developing self-protective skills;

(d) Increase and improve the financing for education in emergencies so that children's right to have access to quality education is recognized as a critical part of humanitarian responses. States should also sign the Safe Schools Declaration, and thereby endorse and follow the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict.

3.9 Report on the third session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights

The open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights was established by the Human Rights Council in its resolution 26/9 of 26 June 2014, and mandated to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises with respect to human rights. In the resolution, the Council decided that the Chairperson-Rapporteur should prepare elements for the draft legally binding instrument for substantive negotiations at the commencement of the third session of the working group, taking into consideration the discussions held at its first two sessions.

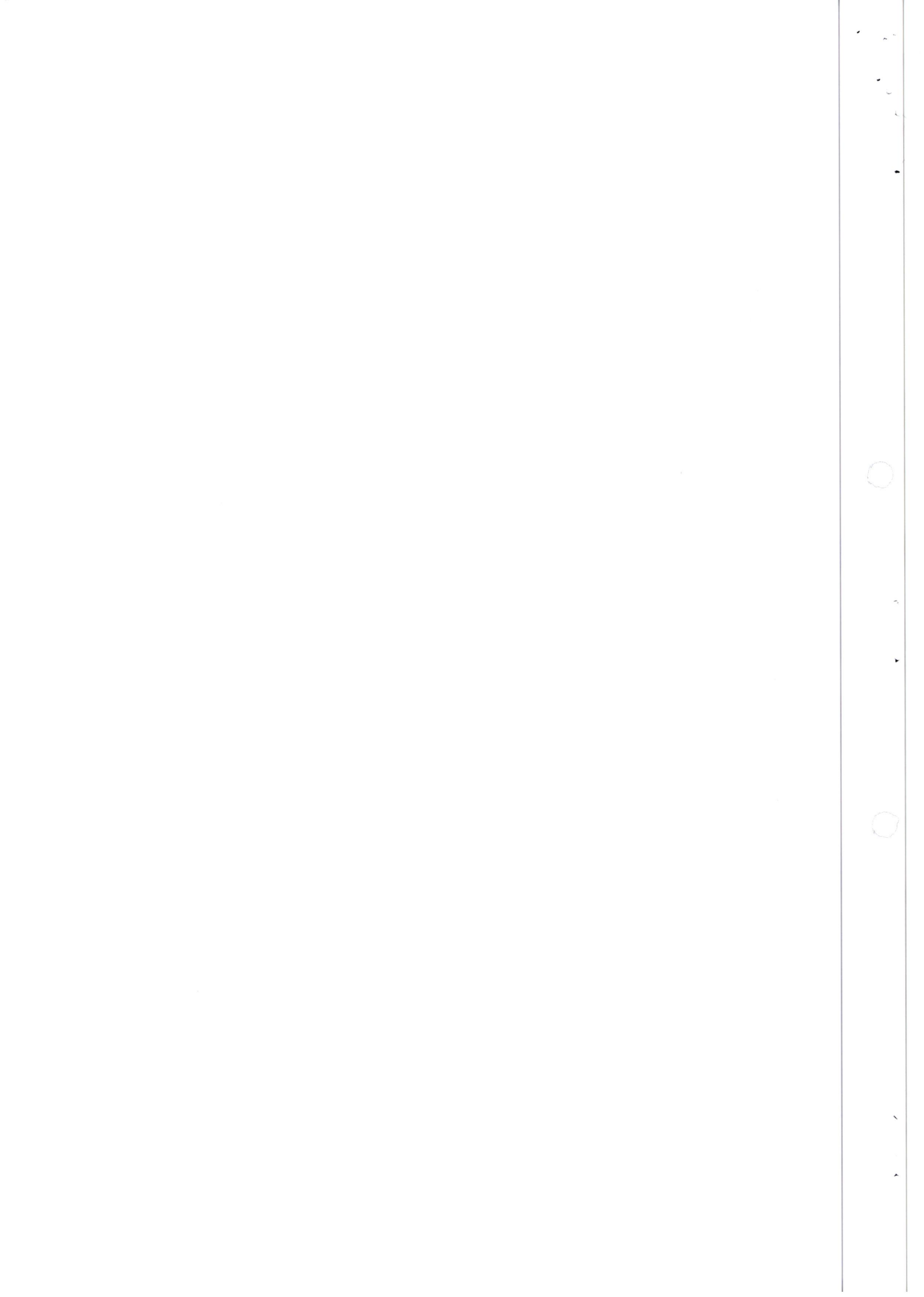


Panel discussions

The first panelist noted that the counterweight to the impunity of the transnational corporations was the product of a strong grass-roots process. Consumers needed access to information to influence business habits; thus, there should be transparent human rights due diligence processes throughout supply chains. She noted that the European Parliament had mandated its representative to maintain a constructive dialogue with the working group because it believed that there needed to be a legally binding instrument regulating business and human rights. The panelist invited the regional organization to engage constructively in accordance with the common position of the European Parliament with respect to that process.

The second panelist offered a development perspective to the discussion. He argued that globalization distinctly disadvantaged developing countries, and that large financial corporations posed barriers to development in the global South and affected inequality within all nations. Furthermore, the predatory features of the current economy impeded the Sustainable Development Goals, but there was a growing trend to combat that.

The third panelist addressed the accelerating pace of challenges faced by the global community with respect to development and recognition of human rights. He found the proposed elements reflected the main perspectives expressed during the previous two sessions and highlighted three objectives in the document: (a) guaranteeing the respect, promotion and fulfilment of human rights, (b) guaranteeing access to remedies, and (c) strengthening international cooperation. Some delegations argued that the chapter on the “General framework” in the elements document should be more concise, while others expressed appreciation for the comprehensive approach.



4.0 Committee Observations

The Committee made a number of observations in regard to:

(a) Access to Justice for Persons living with disabilities

Several good practices illustrate the possibilities of guaranteeing the accessibility of legal information and communication to persons with disabilities. For instance, the Constitutional Court of Colombia and the Supreme Court of Mexico called for the translation of judgments concerning persons with disabilities into easy read formats for the benefit of the petitioners and other persons with intellectual disabilities.

In Finland, the police have designed their website to provide a range of accessible formats, such as plain language, content and videos in sign language, some of them captioned, and a complaint form in large print for easy access of persons with disabilities. States should implement mechanisms to monitor their legal proceedings and evaluate the success of their policies with regard to access to justice.

The absence of free legal aid is one of the most common barriers to equality of arms and equal access to justice, particularly for persons with disabilities, who number disproportionately among the world's poor and face challenges in affording legal advice and representation. The right to legal counsel is a fair trial right and includes the right to free legal aid. The Committee was concerned about the lack of available free legal aid for persons with disabilities, and for women and girls with disabilities facing violence or abuse. In some countries where legal aid services have been established, in practice they lack the necessary resources; do not operate on an independent basis; are inaccessible to persons with disabilities; or lack sufficient expertise about the rights of persons with disabilities. In Canada, the Ontario Legal Aid Office provides all information online in alternative formats and trains employees on communicating with people with various types of impairments.

Further, attitudinal barriers affect access to justice for persons with disabilities, as they may negatively influence the way in which laws, legal policies, procedures and practices are implemented. Often, these attitudinal barriers stem from lack of awareness of the rights of, and appropriate practices for, persons with disabilities in the justice system on the part of



police officers, public defenders and professionals working as public defenders or providing legal aid, legal service providers and others.

(b) Pretrial Detention Safeguards

Effective implementation of safeguards to prevent torture and other cruel, inhuman or degrading treatment or punishment during police custody and pretrial detention had the greatest impact on reducing and preventing torture.

The meeting lauded the internal and independent complaints mechanisms and investigations in different regions. In Canada, the work of the Office of the Independent Police Review Director, is to investigate claims made against the police. The police were wary of the Office as they knew mistreating detainees carried serious sanctions. Additionally, the Commission on Human Rights and Administrative Justice in Ghana has the power to look into allegations of mistreatment in detention, although they did not have the power to prosecute.

The Committee underlined that properly functioning oversight mechanisms needed to be independent in terms of their decision-making capabilities and investigatory functions. The independent bodies' decisions should be implemented and police should have a healthy fear of investigations.

(c) Multiple and intersecting forms of discrimination

Unequal opportunities and impediments to human development were rarely attributable to discrimination based on a single dimension of a person's identity. People most affected by discriminatory practices usually faced multiple and intersecting forms of discrimination, which denied them their basic human dignity. Multiple and reinforcing grounds of discrimination led to poverty and violence and denied women and girls their human rights.

Some of the compounding factors that underwrite intersectional discrimination and violence include (a) the lack of awareness of the problem and its extent; (b) poverty; (c) the absence of statistical information related to the situation of women from specific groups, including the prohibition of collection of data on the basis of ethnicity; (d) the absence of legislation and other measures; and (e) inadequate allocation of resources. The lack of involvement of women in decision-making processes, patriarchal practices and norms, and barriers in



accessing justice and services such as education, health care, credit facilities and community services were also identified as key factors that enable intersectional discrimination.

Inclusion and participation of women and girls was key to overcoming those challenges and that addressing intersecting forms of discrimination against women and girls would contribute to the full implementation of the Sustainable Development Goals.

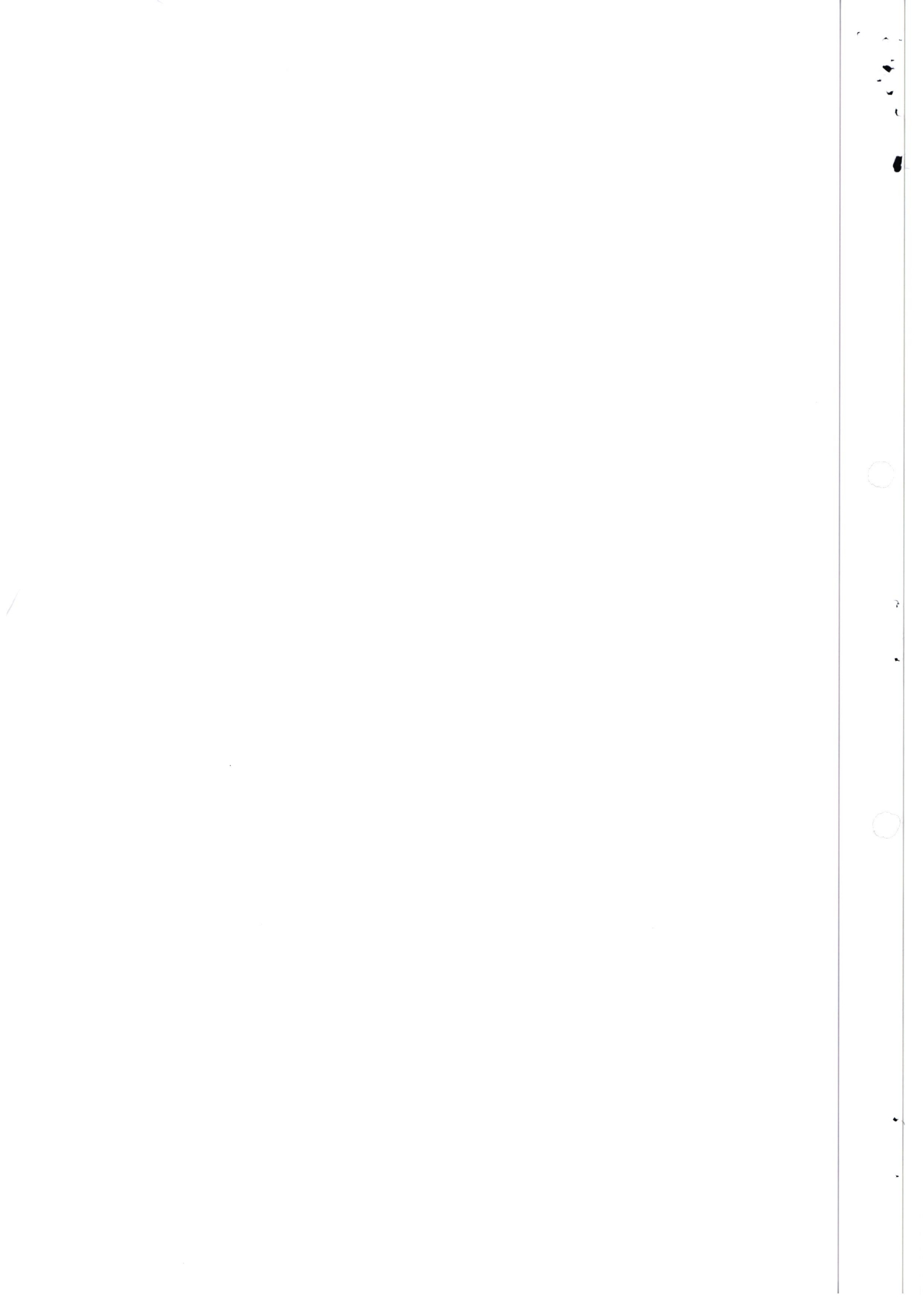
(d) 2030 Agenda for Sustainable Development

The 2030 Agenda for Sustainable Development is unequivocally anchored in human rights and has at its heart the commitment to leave no one behind and to reach the furthest behind first. It aims to address the multidimensional causes of poverty, inequality and discrimination, and reduce the vulnerabilities of the most marginalized people, including women, refugees, internally displaced persons, migrants, minorities, indigenous peoples, stateless persons and populations affected by conflict and natural disasters.

Disasters, crises and conflicts, including those induced by climate change, pose a significant threat to progress towards sustainable development and the realization of all human rights, including economic, social and cultural rights.

(e) Children's human rights violations in humanitarian situations

Children are especially vulnerable to human rights violations committed in humanitarian situations, such as the deprivation of health care and education, forced displacement, the separation of children from their families, abduction and trafficking, their recruitment and use by armed forces or groups, and sexual abuse and exploitation.



5.0 Committee Recommendations

The Committee made the following recommendations: -

- (1) In order to strengthen and consolidate the protection of Human rights, it's critical for the Ministry of Labour and Social Welfare to mainstream and engage Members of Parliament in the work of the Human Rights Commission.
- (2) For cohesion to be achieved in the Country, Parliament must hold the Government to accountable in reinforcing the protection of human rights. Furthermore, good practices from different national parliaments should also be tailored to the needs of the Country.
- (3) Parliament should ensure that effective, child-sensitive procedures are available to children and their representatives in accessing independent complaint procedures and courts. The creation of children ombudsman to represent the interests of the children by investigating and addressing their complaints on violation of their rights.
- (4) Inclusion of Human rights subjects at all levels of the education system. Inclusion of human rights in the school curriculum would help children to develop a sense of common humanity, sharing of values and responsibility based on human rights. The human rights subject should be recognized like any other subject like mathematics or physics and not seen as an inferior.
- (5) To defend rights of persons with Disability, Parliament should enact laws that provide affordable legal aid to persons with disabilities in all areas of law and the National Government should allocate resources to support the provision of free legal aid.
- (6) The Judiciary should design and deliver mandatory regular training programmes, involving persons with disabilities at all stages of legal proceedings, including in rural areas and must ensure the availability of services and information using multiple means, modes and formats of communication.
- (7) Parliament should review the Independent Policing Oversight Authority Act, 2011 to strengthen Independent Policing Oversight Authority in investigating claims made against the police. The Committee on National Cohesion should require the Authority to prepare a performance report every six months on its activities.
- (8) It is fundamental that the Government, in accordance with international human rights, gives priority to the rights of children in humanitarian situations such conflicts, hunger and floods. Subsequently, to protect the right of Children, the National

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Government in cooperation with international organizations, civil society and the private sector should:

- (a) Conduct child-focused planning and assess child protection risks when making provisions for emergency preparedness, humanitarian response and assistance;

Strengthen the capacity of institutions engaged in child protection such as the Children's Department, The National Council for children Services to enable them reach the lowest level possible in the administrative structures so as to enable effective assistance to children in need. To enhance effectiveness, a synergy should be developed with other Governance structures such as the National Government administration at the grassroots.

- (b) Promote child-centred innovation, empowering children to be agents of change and building their resilience through the development of innovative child centred participatory approaches; children must be involved in their own protection, and supported in developing self-protective skills;
- (c) Increase and improve the financing for education in emergencies so that children's right to have access to quality education is recognized as a critical part of humanitarian responses.

